

FIRST PRINT

THREATENED SPECIES CONSERVATION BILL 1993

NEW SOUTH WALES



EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

The objects of this Bill are as follows:

- (a) to establish a Scientific Advisory Committee for the purposes of the proposed Act;
- (b) to provide for the identification and "listing" of species and communities of flora and fauna that are endangered or vulnerable or rare (Schedule 2), or potentially vulnerable (Schedule 3);
- (c) to provide for a determination of critical habitats for species and communities listed on Schedule 2;
- (d) to provide for a determination of threatening processes in respect of listed species and communities;
- (e) to provide for the monitoring of species and communities listed in Schedule 3 to assess whether they should be listed in Schedule 2;
- (f) to provide for the making of recovery plans for species and communities listed in Schedule 2;
- (g) to provide for the assessment of the impact of development on species and communities listed in Schedule 2 or 3;
- (h) to ensure threatened species are only harmed with the informed consent of the Director-General of National Parks and Wildlife;
- (i) to empower the acquisition of land (including by resumption) for the purposes of the proposed Act;
- (j) to provide for the preparation of a Biological Diversity Strategy;
- (k) to provide for the identification, listing in Schedule 5, and management of threatening processes by means of action plans;

Threatened Species Conservation 1993

- (l) to make other general provisions concerning enforcement of the proposed Act, payment of compensation by offenders, restraint of breaches of the proposed Act, and miscellaneous matters;
 - (m) to prevent species becoming extinct;
 - (n) to encourage the recovery and survival of threatened species.
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PART 1—PRELIMINARY

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides that the proposed Act commences on assent.

Clause 3 provides definitions for the purposes of the proposed Act.

Clause 4 states that the objects of the proposed Act are:

- (a) to conserve biodiversity; and
- (b) to maintain ecological and evolutionary processes; and
- (c) to prevent the extinction of any species or community of flora and fauna, other than the species listed in Schedule 1 (Species of flora and fauna excluded from the Act); and
- (d) to apply the precautionary principle (which is defined as having the same meaning as in the Protection of the Environment Administration Act 1991) in ensuring that species do not become extinct; and
- (e) to eliminate or manage threatening processes; and
- (f) to provide programs of community education in the conservation of threatened flora and fauna; and
- (g) to encourage co-operative management of the conservation of threatened flora and fauna through, among other things, conservation agreements under the National Parks and Wildlife Act 1974.

The clause also provides that public authorities are to be administered to further the objects of the proposed Act.

Clause 5 provides that the Scientific Advisory Committee constituted under the proposed Act may recommend that flora and fauna that constitute a serious threat to human health be excluded from the protection of the proposed Act by listing in Schedule 1. Any such recommendation must be advertised and public comment on the proposal must be considered by the Minister before the Minister recommends listing in Schedule 1 to the Governor.

Clause 6 provides that the proposed Act binds the Crown.

Clause 7 provides that the proposed Act and recovery and action plans made under it prevail over inconsistent requirements of any other Act, statutory instrument or duty.

PART 2—ADMINISTRATION

Clause 8 provides for administration of the proposed Act by the Director-General of National Parks and Wildlife who is to report annually to Parliament on implementation of the proposed Act.

Threatened Species Conservation 1993

Clause 9 provides for the constitution of the Scientific Advisory Committee of 7 scientists having knowledge, experience and skills in the science of flora or fauna conservation, conservation biology or ecology. Schedule 6 (Provisions relating to the members and procedure of the Committee) has effect in relation to the Committee.

Clause 10 makes provision as to the functions of the Scientific Advisory Committee. These include listing threatened species or communities of flora and fauna, advising the Director-General and Minister on matters pertaining to the proposed Act and making recommendations concerning the acquisition of land for the protection of species or communities of threatened flora or fauna. The Committee may obtain from any public authority or person any information necessary for the proper exercise of its functions.

Clause 11 provides for the establishment of a Threatened Species Unit within the National Parks and Wildlife Service. The functions of the Unit include the making of recommendations to the Director-General regarding the exercise of functions under the proposed Act, the provision of technical advice and research data to the Director-General and the Scientific Advisory Committee and liaising with State and Commonwealth authorities and others to ensure the implementation of the proposed Act.

PART 3—LISTING

Division 1—Endangered or vulnerable or rare, or potentially vulnerable, species and communities

Clause 12 makes provision for the listing of endangered or vulnerable or rare species and communities of flora and fauna in Schedule 2 to the proposed Act and for the listing of potentially vulnerable species and communities of flora and fauna in Schedule 3 to the proposed Act. The Director-General is to arrange for the addition or removal of items from these Schedules by order in accordance with recommendations of the Scientific Advisory Committee. Orders are to be laid before each House of Parliament within 7 days after they are made. Schedule 12 to the National Parks and Wildlife Act 1974 (Endangered Fauna) is taken to form part of Schedule 2 to the proposed Act (the word "threatened" in the former Schedule being taken to have the same meaning as "endangered" in the proposed Act) except in relation to species that are extinct.

Clause 13 states that a species or community of flora or fauna is eligible to be listed:

- (a) in Schedule 2 if it is in a state of decline that may result in extinction in New South Wales; or
- (b) in Schedule 3 if it requires ongoing monitoring and research due to existing recognised vulnerability.

The Scientific Committee is to prepare criteria as a basis for listing in the Schedules. The criteria only have effect if included in regulations made under the proposed Act.

Clause 14 provides that any person may nominate any species or community of flora or fauna for addition to or removal from Schedule 2 or 3.

Clause 15 provides for the consideration of nominations received under clause 14 by the Scientific Advisory Committee. If the Committee rejects a nomination, it must notify the Minister and the nominator and give reasons for its decision.

Threatened Species Conservation 1993

Clause 16 requires the Scientific Advisory Committee to advertise its preliminary recommendation on a nomination in a newspaper circulating generally in that State to allow for the making of comments by the public.

Clause 17 makes provision for the making of a final recommendation by the Scientific Advisory Committee to the Director-General after it has considered any public comments. The decision and the reasons for it must be published.

Clause 18 enables the provisional listing of a species or community which is not listed in Schedule 2 or 3 if there is the threat of an activity which is demonstrably likely to threaten its survival or to cause its significant decline in the State and insufficient time is available to comply with the normal listing process. Any person may nominate a species or community for listing by this process. As soon as practicable after provisional listing, the Scientific Advisory Committee is to review the status of the species or community concerned in accordance with clauses 16 and 17 and identify any threatening processes in the notifications that it is required to make under those clauses. Provisional listing ceases to have effect when the Committee makes its recommendation on the listing to the Director-General.

Division 2—Critical habitats, threatening processes and monitoring

Clause 19 provides for the determination of the critical habitat for each species or community of flora or fauna listed in Schedule 2 by the Scientific Advisory Committee no later than 1 year after its listing in Schedule 2. The Director-General is to keep a register of critical habitats. If the Director-General is of the opinion that any activity is being or about to be carried out that will damage or destroy a critical habitat and will threaten the survival of the species or community concerned, the Director-General is required to take such action under clause 39 (Stop work orders) as may be necessary to prevent the damage or destruction.

Clause 20 provides for the determination of the threatening process or processes for each species or community of flora or fauna listed in Schedule 2 or 3 by the Scientific Advisory Committee no later than 1 year after its listing in Schedule 2 or 3. Threatening processes that adversely affect 2 or more species in Schedule 2 or 3 are listed in Schedule 5.

Clause 21 provides for the establishment by the Scientific Advisory Committee of a monitoring system for species or communities listed in Schedule 3 within 1 year of the listing of the species or community in that Schedule. Provision is made for transfer of listing of species or communities from Schedule 3 to Schedule 2 in accordance with clauses 16 and 17. The Committee may request the Director-General to devise action plans for species or communities listed in Schedule 3 whose condition is likely to deteriorate.

Division 3—Species and communities presumed extinct

Clause 22 makes provision for the listing in Schedule 4 of species and communities presumed extinct. Provision is made for the making of addition and amendments to, and repeals from, the Schedule by order and for orders to be laid before each House of Parliament after making. If a species is rediscovered, it is to be provisionally listed in Schedule 2 under clause 18.

Threatened Species Conservation 1993

PART 4—RECOVERY PLANS

Clause 23 provides for the Minister to make recovery plans for species or a group of species or communities of flora or fauna within 3 years after they are listed in Schedule 2. Consultation on a draft recovery plan is to involve a Recovery Team comprising representatives from relevant Government Departments and agencies, affected landholders and appropriate experts, and notice of its preparation is to be advertised throughout the State to enable the making of public submissions.

The Director-General is to submit a final draft recovery plan and any submissions on the draft plan to the Scientific Advisory Committee which, in turn, reviews the plan and submits it, with or without amendment, to the Minister. If the Minister does not accept the plan in the form recommended by the Committee, the Minister must provide reasons in the recovery plan. Notice of the making of the recovery plan is to be published, and the Director-General must commence to implement it no later than 3 months after it is made.

In preparing recovery plans, the Director-General is required to give highest priority to those species or communities most likely to benefit from such plans and particularly those that are, or may be, in conflict with development projects or other activities, and those not adequately protected outside the State.

Clause 24 makes provision for amendment and revocation of recovery plans.

Clause 25 makes provision as to the contents of recovery plans. The Scientific Advisory Committee must review the implementation of each recovery plan annually, advise the Director-General on any deficiencies in implementation of plans and include its findings in its annual report to Parliament.

Clause 26 require the Director-General to review a recovery plan before the review date included in it.

PART 5—IMPACT OF ACTIVITIES

Clause 27 creates offences in relation to the taking or killing of any species or community listed in Schedule 2 that are punishable by a fine of 1,000 penalty units (\$100,000) or 2 years' imprisonment, or both. The holding of a licence under the proposed Act or the National Parks and Wildlife Act 1974 authorising the doing of the act which constitutes the offence provides a defence to it. The requirements of the clause prevail over inconsistent requirements of other Acts or statutory instruments other than the Bush Fires Act 1949.

Clause 28 provides further defences to prosecutions for taking or killing species listed in Schedule 2.

Clause 29 provides that the Director-General may issue licences authorising persons to take or kill species or communities listed in Schedule 2.

Clause 30 makes provision for licence applications including the provision of threatened species impact statements and the payment of application and processing fees.

Clause 31 requires the Director-General to advertise licence applications and invite public submissions on them. The matters to be taken into account by the Director-General in consideration of applications are enumerated.

Threatened Species Conservation 1993

Clause 32 provides for the grant of licences by the Director-General. Licences granted under the section are temporary licences which cease to have effect 120 days after their issue.

Clause 33 requires the Director-General to publicly notify the grant of a licence.

Clause 34 provides that persons dissatisfied with a decision of the Director-General relating to licences may appeal to the Land and Environment Court against the decision.

Clause 35 makes provision as to the form and content of threatened species impact statements. Such statements are to be prepared in consultation with the Director-General and are to have regard to any requirements notified by the Director-General.

Clause 36 provides that licences issued under Part 5 are subject to conditions and restrictions for the time being imposed on them by the Director-General or prescribed in relation to licences of the class to which they belong. Conditions and restrictions may be varied or removed, and a licence may be cancelled by the Minister or the Director-General. It is an offence to contravene any licence condition or restriction, punishable by a maximum penalty of 1,000 penalty units (\$100,000) or 2 years' imprisonment, or both.

Clause 37 states that section 98 (2) of the National Parks and Wildlife Act 1974 (which creates offences in relation to the taking or killing of protected fauna) does not apply to species or communities listed in Schedule 3 to the proposed Act in relation to things essential to the carrying out of development or an activity in accordance with a development consent or approval given under the Environmental Planning and Assessment Act 1979 so long as the development or activity conforms with any relevant action plan.

Clause 38 requires consent authorities to advise and consult with the Director-General if development or activity is likely to result in the taking or killing of any species or community listed in Schedule 3.

Clause 39 enables the Minister or the Director-General to order that any action likely to significantly affect the environment of any species or community listed in Schedule 2 cease and that no action, other than that specified in the order, be carried out with respect to the environment within 40 days after the making of the order. Orders may be extended for a further period or periods of 40 days, and may be superseded by the making of an interim protection order under the National Parks and Wildlife Act 1974. Inconsistent approvals, notices or orders made under any other Act which require or permit the environment to be significantly affected are void to the extent of any inconsistency with an order made under this clause.

Clause 40 requires that, 3 months after the notification of a critical habitat under clause 19, persons cease undertaking any activity that is likely to damage or destroy that habitat or to threaten the survival of the species or community for which the habitat is designated. Such persons must also enter into negotiations for a management contract under clause 41.

Clause 41 enables the Director-General to enter into a contract with one or more persons or public authorities to provide for the management, control or prohibition of any activity that threatens the survival of a species or community or group of species or communities listed in Schedule 2 or 3. The clause makes provision as to the contents, and publication of the making of drafts, of management contracts. Submissions on draft contracts are to be reviewed by the Director-General before the preparation of the final

Threatened Species Conservation 1993

management contract and that document, in turn, is to be reviewed and, if necessary, amended by the Scientific Advisory Committee before it is entered into. The Committee is also to conduct an annual review of the performance of all parties to management contracts, is to advise the Director-General of any deficiencies and is to incorporate its findings in its annual report to Parliament.

PART 6—BIOLOGICAL DIVERSITY STRATEGY

Clause 42 requires the Director-General to prepare a Biological Diversity Strategy, outlining how the objects of the proposed Act are to be achieved, within 12 months after the commencement of the proposed Act. Provision is made as to the contents of the Strategy.

Clause 43 sets out the procedure for making, and amending, the Strategy.

PART 7—MANAGEMENT OF THREATENING PROCESSES

Clause 44 requires the Director-General and the Scientific Advisory Committee to identify threatening processes.

Clause 45 stipulates the procedure for the making of action plans. Action plans are made by the Minister after consideration of any public submissions, and recommendations by the Scientific Advisory Committee. Notice of the making of an action plan is to be published.

Clause 46 provides for amendment or revocation of action plans by the Minister.

Clause 47 makes provision as to the contents of action plans.

Clause 48 makes provision as to the review of action plans.

PART 8—GENERAL

Clause 49 provides that, in addition to any other penalty, a person convicted of an offence involving the destruction of or damage to a species or community of flora or fauna may be ordered by the Land and Environment Court to carry out restoration work and to provide security for the performance of that work.

Clause 50 provides for the making of orders for the payment of compensation by persons convicted of offences under the proposed Act by the Land and Environment Court.

Clause 51 makes provision for certain information about flora or fauna to be declared to be confidential if the Director-General is of the view that disclosure is likely to result in harm to flora, fauna or a critical habitat. A person improperly disclosing confidential information may be convicted of an offence punishable by a maximum fine of 50 penalty units (\$5,000).

Clause 52 makes provision for the bringing of proceedings in the Land and Environment Court by persons to remedy or restrain breaches of the proposed Act.

Clause 53 specifies that certain matters must be included in the annual report of the National Parks and Wildlife Service.

Clause 54 authorises the Director-General to enter into co-operative agreements with persons or public authorities to achieve the objects of the proposed Act.

Threatened Species Conservation 1993

Clause 55 protects persons from personal liability in respect of activities performed in good faith for the purposes of the proposed Act.

Clause 56 makes provision as to proceedings for offences committed under the proposed Act.

Clause 57 makes provision as to offences by corporations.

Clause 58 empowers the Governor to make regulations for the purposes of the proposed Act.

Clause 59 is a formal provision that gives effect to Schedule 7 (Amendment of Acts).

Clause 60 is a formal provision that gives effect to Schedule 8 (Amendment of Environmental Planning and Assessment Regulation 1980).

Schedule 1 is to contain the names of any species of flora or fauna that are excluded from the operation of the proposed Act.

Schedule 2 contains a list of flora and fauna that is endangered or vulnerable or rare.

Schedule 3 is to contain a list of any species and communities of flora or fauna that are potentially vulnerable.

Schedule 4 is to contain a list of any species and communities of flora or fauna that are presumed extinct.

Schedule 5 contains a list of threatening processes that adversely affect species or communities listed in Schedule 2 or 3.

Schedule 6 contains provisions relating to the members and procedure of the Scientific Advisory Committee.

Schedule 7 makes consequential amendments to the Environmental Planning and Assessment Act 1979, the Land and Environment Court Act 1979 and the National Parks and Wildlife Act 1974.

Schedule 8 makes consequential amendments to the Environmental Planning and Assessment Regulation 1980.

FIRST PRINT

THREATENED SPECIES CONSERVATION BILL 1993

NEW SOUTH WALES



TABLE OF PROVISIONS

PART 1—PRELIMINARY

1. Short title
2. Commencement
3. Definitions
4. Objects
5. Flora and fauna which are excluded from the Act
6. Act binds Crown
7. Effect of this Act on other Acts

PART 2—ADMINISTRATION

8. Functions of the Director-General
9. The Scientific Advisory Committee
10. Functions of the Committee
11. Threatened Species Unit

PART 3—LISTING

Division 1—Endangered or vulnerable or rare, or potentially vulnerable, species and communities

12. The list
13. Eligibility for listing
14. Making a nomination concerning listing
15. Consideration of the nomination
16. The Committee's preliminary recommendation
17. The Committee's final decision
18. Provisional listing

Threatened Species Conservation 1993

Division 2—Critical habitats, threatening processes and monitoring

19. Determination of critical habitats
20. Determination of threatening processes
21. Monitoring

Division 3—Species and communities presumed extinct

22. The list

PART 4—RECOVERY PLANS

23. Procedure for making recovery plans
24. Amendment and revocation of recovery plans
25. Contents of recovery plans
26. Review of recovery plans

PART 5—IMPACT OF ACTIVITIES

27. Offences concerning Schedule 2 species and communities
28. Further provisions respecting taking or killing species listed in Schedule 2
29. Licences
30. Licence applications
31. Consideration of applications
32. Grant of licence applications
33. Notice of grant of licence
34. Appeals
35. Threatened species impact statements
36. Conditions and restrictions attaching to licences
37. Taking and killing Schedule 3 species and communities
38. Consent authority to advise Director-General in relation to Schedule 3 species and communities
39. Stop work orders
40. Protection of critical habitats
41. Management contracts

PART 6—BIOLOGICAL DIVERSITY STRATEGY

42. The Strategy
43. Procedure for making or amending the Strategy

PART 7—MANAGEMENT OF THREATENING PROCESSES

44. Identification of threatening processes
45. Procedure for making action plans
46. Amendment and revocation of action plans
47. Contents of action plans
48. Review of action plans

PART 8—GENERAL

49. Restoration
50. Payment of compensation by offender
51. Secrecy
52. Restraint of breaches of Act
53. Matters to be put in annual report

Threatened Species Conservation 1993

- 54. Co-operative agreements
- 55. Protection from liability
- 56. Proceedings for offences
- 57. Offences by corporations
- 58. Regulations
- 59. Amendment of certain Acts
- 60. Amendment of Environmental Planning and Assessment Regulation 1980

SCHEDULE 1—SPECIES OF FLORA AND FAUNA EXCLUDED FROM THE ACT

SCHEDULE 2—ENDANGERED OR VULNERABLE OR RARE SPECIES AND COMMUNITIES

SCHEDULE 3—POTENTIALLY VULNERABLE SPECIES AND COMMUNITIES

SCHEDULE 4—SPECIES AND COMMUNITIES PRESUMED EXTINCT

SCHEDULE 5—THREATENING PROCESSES

SCHEDULE 6—PROVISIONS RELATING TO THE MEMBERS AND PROCEDURE OF THE COMMITTEE

SCHEDULE 7—AMENDMENT OF ACTS

SCHEDULE 8—AMENDMENT OF ENVIRONMENTAL PLANNING AND ASSESSMENT REGULATION 1980

THREATENED SPECIES CONSERVATION BILL 1993

NEW SOUTH WALES



No. , 1993

A BILL FOR

An Act to establish a legal and administrative structure to enable and promote the conservation of New South Wales' threatened flora and fauna and to provide for procedures which can be used for the prevention and management of threatening processes; and for related purposes.

Threatened Species Conservation 1993

The Legislature of New South Wales enacts:

PART 1—PRELIMINARY

Short title

1. This Act may be cited as the Threatened Species Conservation
5 Act 1993.

Commencement

2. This Act commences on the date of assent.

Definitions

3. (1) In this Act:

10 “activity” means:

- (a) the formulation of proposals, or the making of a
recommendation or decision, for the carrying out of a
development, work or project by or on behalf of a public
authority, or by or on behalf of any person and for which the
15 approval of a public authority is required; or
(b) the incurring of expenditure by or on behalf of a public
authority in respect of the carrying out of a development, work
or project by the public authority or the incurring of
expenditure by or on behalf of any other person in respect of a
20 development, work or project for which the approval of a
public authority is required; or
(c) the carrying out of a development, work or project by a public
authority or a development, work or project for which the
approval of a public authority is required, whether or not
25 undertaken by the public authority;

“biodiversity” is the diversity of life and is made up of three
components:

- (a) genetic diversity—the variety of genes (or units of heredity) in
any population; and
30 (b) species diversity—the variety of species; and
(c) ecosystem diversity—the variety of communities or
ecosystems;

“Committee” means the Scientific Advisory Committee established
under this Act;

35 “community” means an assemblage of species inhabiting a given area
in the wild;

Threatened Species Conservation 1993

- “consent authority”** includes a consent authority within the meaning of the Environmental Planning and Assessment Act 1979 and a “determining authority” within the meaning of that Act;
- “conservation agreement”** has the same meaning as in the National Parks and Wildlife Act 1974; 5
- “Court”** means the Land and Environment Court;
- “development”** includes:
- (a) the construction or exterior alteration of a building or other structure; and
 - (b) the demolition or removal of a building or other structure or works; and 10
 - (c) the construction or carrying out of works; and
 - (d) the subdivision or consolidation of land; and
 - (e) the placing or relocation of a building or other structure or works on land; 15
- “Director-General”** means the Director-General of National Parks and Wildlife appointed under the National Parks and Wildlife Act 1974;
- “ecologically sustainable development”** has the same meaning as in the Protection of the Environment Administration Act 1991; 20
- “fauna”** means any animal life which is indigenous to New South Wales whether vertebrate or invertebrate and in any stage of biological development and includes fish and any other living thing generally classified as fauna, but does not include humans;
- “flora”** means any plant life which is indigenous to New South Wales whether vascular or non-vascular and in any stage of biological development and includes any other living thing generally classified as flora, including fungi; 25
- “habitat”** means the area, locality, site or particular type of local environment occupied or occasionally occupied by a species of flora or fauna or a community; 30
- “indigenous”** means native to New South Wales;
- “land”** includes:
- (a) buildings and other structures permanently fixed to land; and
 - (b) land covered with water; and 35
 - (c) the sea or an arm of the sea; and
 - (d) a bay, inlet, lagoon, lake or body of water, whether inland or not and whether tidal or not; and

Threatened Species Conservation 1993

- (e) a river, stream or watercourse, whether tidal or not; and
- (f) any estate, interest, easement, servitude, privilege or right in or over land;

5 **“landholder”** means a person who, whether alone or with others, is in occupation or possession, or has the management or control, of land, and includes the agent of such a person;

“person” means an individual, corporation, partnership, trust, association or any other entity;

10 **“precautionary principle”** has the same meaning as in the Protection of the Environment Administration Act 1991;

“public authority” means:

 (a) a Government Department;

 (b) an Administrative Office within the meaning of the Public Sector Management Act 1988;

15 (c) a council or county council under the Local Government Act 1993; and

 (d) any other body constituted by or under an Act,

 and includes a person exercising functions on behalf of that department, office, council or body;

20 **“Service”** means the National Parks and Wildlife Service constituted under the National Parks and Wildlife Act 1974;

25 **“species”** means a population or series of populations of living fauna or flora that are capable of interbreeding freely with each other but not with members of other species and includes any defined sub-species and taxon below sub-species and any recognisable variant or distinct population of any such species;

30 **“take”** includes kill, injure, disturb, collect and without limiting the foregoing also includes significant modification of the habitat of a taxon which is likely to affect it adversely, or (in regard to fauna) may adversely affect its essential behaviour patterns. Take also applies to the taking of any flora or fauna of a listed community or its habitat;

“threatened” means endangered, rare, vulnerable, or potentially vulnerable;

35 **“threatening process”** means a process which has or may have the capability to threaten the survival or evolutionary development of any species or community of flora or fauna;

40 **“wild”** means in an independent, unpossessed or natural state and not in an intentionally cultivated or domesticated or captive state, regardless of location or land tenure;

Threatened Species Conservation 1993

“works”, in relation to land, includes any change to the natural or existing condition or topography of the land including the removal, destruction or lopping of trees and the removal of vegetation or soil.

(2) In this Act:

- (a) a reference to a function includes a reference to a power, authority and duty; and 5
- (b) a reference to the exercise of a function includes, where the function is a duty, a reference to the performance of the duty.

Objects

4. (1) The objects of this Act are: 10

- (a) to conserve biodiversity; and
- (b) to maintain ecological and evolutionary processes; and
- (c) to prevent the extinction of any species or community of flora and fauna, other than the species listed in Schedule 1; and
- (d) to apply the precautionary principle in ensuring that species do not become extinct; and 15
- (e) to eliminate or manage threatening processes; and
- (f) to provide programs of community education in the conservation of threatened flora and fauna; and
- (g) to encourage co-operative management for the conservation of threatened flora and fauna through, amongst other things, the entering into of conservation agreements under the National Parks and Wildlife Act 1974. 20

(2) A public authority is to be administered so as to further the objects of this Act. 25

Flora and fauna which are excluded from the Act

5. (1) The Governor may, on the recommendation of the Minister and by order published in the Gazette, add an item being a species which constitutes a serious threat to human health to Schedule 1 or amend an item in or repeal an item from Schedule 1. 30

(2) The Minister may recommend that an item be added to or amended in or repealed from Schedule 1 only upon the recommendation of the Committee.

(3) If the Committee proposes to make a recommendation to the Minister it is to advertise the proposed recommendation and the reasons for it in the Gazette and in a newspaper circulating generally throughout the State. 35

Threatened Species Conservation 1993

(4) After advertising its preliminary recommendation, the Committee is to allow at least 30 days to elapse for public comment to be made and is to consider any public comments which are made during that time before making its recommendation.

- 5 (5) After considering the Committee's recommendation, the Minister is to decide whether or not to recommend to the Governor that the addition, amendment or repeal be made and the Minister is to publish reasons for that decision in the Gazette and in a newspaper circulating generally throughout the State.

10 **Act binds Crown**

6. This Act binds the Crown, not only in right of the State but also, so far as the legislative power of the Parliament permits, the Crown in all its other capacities.

Effect of this Act on other Acts

- 15 7. (1) Where the provisions, express or implied, of this Act and recovery and action plans are inconsistent with any of the provisions of any other Act or any instrument or statutory duty of any government agency made under any other Act, the provisions of this Act and recovery and action plans are to prevail.

- 20 (2) Despite subsection (1):

- (a) the Minister is not a consent authority within the meaning of the Environmental Planning and Assessment Act 1979 by virtue of the making of a recovery or action plan under this Act; and
- 25 (b) any activity within the meaning of the Environmental Planning and Assessment Act 1979 authorised by a recovery or action plan is subject to Part 5 of that Act; and
- (c) a recovery plan or action plan does not prevail over a consent granted before notice of the making of the plan is published in the Gazette.

- 30 (3) For the avoidance of doubt, it is provided that the Director-General is not a determining authority for the purposes of Part 3 of the Environmental Planning and Assessment Act 1979 when issuing a licence under this Act.

PART 2—ADMINISTRATION

35 **Functions of the Director-General**

8. (1) The Director-General is to administer this Act in such a way as to meet the objects of this Act.

Threatened Species Conservation 1993

(2) The Director-General is to report annually to Parliament on the implementation of the Act.

The Scientific Advisory Committee

9. (1) There is constituted by this Act a body to be called the Scientific Advisory Committee. 5

(2) The Committee is to consist of 7 members, being:

(a) 2 scientists from within the Service appointed by the Director-General;

(b) 4 scientists, being one each nominated by the Australian Museum, the Royal Botanic Gardens, the Ecological Society of Australia and the Entomological Society of Australia; 10

(c) 1 scientist from the staff of NSW tertiary institutions appointed by the Minister.

(3) The Minister is not to appoint a person to be a member of the Committee unless satisfied that the person is knowledgeable and experienced in the science of flora or fauna conservation, conservation biology or ecology. 15

(4) The Committee's members should have skills in one or more of the following fields:

(a) terrestrial ecology; 20

(b) limnology;

(c) marine ecology;

(d) plant community ecology;

(e) invertebrate biology;

(f) vertebrate biology; 25

(g) flora biology;

(h) genetics of small populations;

(i) population dynamics or population viability analysis or evolutionary ecology.

(5) The Committee is to elect its own chairperson. 30

(6) Schedule 6 (Provisions relating to the members and procedure of the Committee) has effect.

(7) If an organisation fails to nominate a member within one month after being requested to do so by the Director-General this does not prevent the Committee from meeting. 35

Threatened Species Conservation 1993

Functions of the Committee

10. (1) The Committee has the following functions:
- (a) to list threatened species or communities of flora and fauna;
 - 5 (b) to advise the Director-General in respect of the exercise of the Director-General's functions conferred or imposed under this Act;
 - (c) to advise the Minister on any threatened flora and fauna conservation matters;
 - (d) to recommend to the Minister the acquisition of land for the protection of species or communities found in Schedule 2 or 3.
- 10 (2) The Committee may furnish the Minister with such advice in respect of a matter relating to threatened species and communities and to the operation of this Act as the Committee thinks fit.
- (3) In any case, the Committee is to forward to the Minister, within 7 days, copies of any advice provided to the Director-General in respect of
- 15 the exercise of the Director-General's functions conferred or imposed under this Act.
- (4) Except as provided by section 19 (5) and 51 (Secrecy), all records of the Committee are to be open to the public.
- (5) The Committee may co-opt any willing person it considers
- 20 necessary to assist it in the proper discharge of its duties to a working group of the Committee.
- (6) The Committee must not delegate any of its functions to any person or public authority.
- (7) The Chairperson of the Committee may request any information
- 25 that he or she considers necessary for the proper exercise of the Committee's functions from any public authority or person and that public authority or person must comply with the request within the period required by the Chairperson.

Threatened Species Unit

- 30 11. (1) The Director-General is to establish a Threatened Species Unit within the head office of the National Parks and Wildlife Service.
- (2) The functions of the Threatened Species Unit are:
- (a) to make recommendations to the Director-General for or with respect to the exercise of the Director-General's functions conferred or imposed under this Act; and
 - 35 (b) to assist the Committee in the discharge of its functions conferred or imposed under this Act; and

Threatened Species Conservation 1993

- (c) to provide technical advice to the Director-General and the Committee in pursuance of this Act's objects; and
 - (d) to undertake and co-ordinate research as necessary to ensure the implementation of this Act; and
 - (e) to prepare and maintain appropriate data bases on threatened species and communities; and 5
 - (f) to undertake and co-ordinate surveys and prepare inventories of biological diversity, in particular, to identify areas with rare, keystone or indicator species, areas of particular ecological distinctiveness or harbouring threatened species or communities, and areas of high biological diversity, especially those at risk from human activities; and 10
 - (g) to liaise with public authorities, other States' authorities, Commonwealth authorities, persons and non-government organisations and others as necessary to ensure the implementation of this Act; and 15
 - (h) to co-ordinate the preparation of education material and other information in pursuance of the objects of this Act; and
 - (i) to exercise such other functions as may be conferred or imposed on it by this or any other Act. 20
- (3) The Threatened Species Unit is to provide such administrative support to the Committee as is requested or necessary.

PART 3—LISTING

Division 1—Endangered or vulnerable or rare, or potentially vulnerable, species and communities 25

The list

12. (1) Schedule 2 contains a list of species and communities of flora and fauna which are endangered or vulnerable or rare.
- (2) Schedule 3 contains a list of species and communities of flora and fauna which are potentially vulnerable. 30
- (3) The Director-General must in accordance with the recommendation of the Committee and by order published in the Gazette add an item to or remove an item from Schedule 2 or 3.
- (4) An order made under subsection (3) is to be laid before each House of Parliament within 7 sitting days after its making. 35

Threatened Species Conservation 1993

(5) The Committee in making a recommendation under this Part and in preparing the list of criteria for eligibility is to have regard only to nature conservation matters.

- 5 (6) For the purposes of this Part, Schedule 12 under the National Parks and Wildlife Act 1974 (as in force at the date of assent to this Act) is taken to form part of Schedule 2 under this Act (with "threatened" in Schedule 12 having the same meaning as endangered under this Act) except for species that are considered extinct.

Eligibility for listing

- 10 13. (1) A species or community of flora or fauna is eligible to be listed:
- (a) in Schedule 2 if it is in a state of decline (including long term decline) that may result in extinction in New South Wales; or
 - 15 (b) in Schedule 3 if it is a species or community which, while not currently endangered or vulnerable, requires ongoing monitoring and research due to existing recognised vulnerability.
- (2) The Committee is responsible for preparing and maintaining a set of criteria by which the eligibility of species or communities of flora or fauna for listing can be determined.
- 20 (3) The set of criteria referred to in subsection (2) is of no effect unless it is included in regulations under this Act.

Making a nomination concerning listing

14. (1) Any person may nominate any species or community of flora or fauna to be added to or removed from Schedule 2 or 3.
- 25 (2) A nomination is to be made to the Committee and must include any prescribed information and be in writing addressed to the Secretary of the Committee.

Consideration of the nomination

- 30 15. (1) The Committee is to consider each nomination at the first meeting after it has been made.
- (2) The Committee may consider different nominations about the same subject together.
- (3) The Committee may reject a nomination if:
- (a) the nomination has already been given effect to; or
 - 35 (b) the nomination is vexatious; or

Threatened Species Conservation 1993

(c) the nomination is not accompanied by the prescribed information.

(4) If the Committee rejects a nomination, it is to notify the Minister and nominator and give reasons for that rejection.

The Committee's preliminary recommendation

16. (1) The Committee, after reaching a view on a nomination, is to make a preliminary recommendation as to whether the nomination should be supported or not supported or no opinion stated. 5

(2) When the Committee has made a preliminary recommendation, it must within 30 days:

(a) notify the nominator; and 10

(b) advertise its preliminary recommendation and the reasons for it in a newspaper circulating generally throughout the State.

(3) After advertising its preliminary recommendation, the Committee is to allow 30 days to elapse for public comment to be made and is to consider any public comments which are made during that time. 15

The Committee's final decision

17. (1) After considering any public comments, the Committee is to decide whether or not to recommend to the Director-General that the species or community of flora or fauna be added to or removed from Schedule 2 or 3 in accordance with the nomination. 20

(2) The Committee must make a decision under subsection (1) within 6 months of the making of the nomination.

(3) When the Committee has made its decision, it must within 30 days:

(a) notify the nominator; and

(b) advertise the decision and the reasons for it in a newspaper circulating generally throughout the State; and 25

(c) publish notice of the making of the decision in the Gazette.

Provisional listing

18. (1) Where the Committee notifies the Director-General that it is satisfied that: 30

(a) a species or community of flora or fauna is not listed in Schedule 2 or 3; and

(b) the species or community is threatened by an activity which is demonstrably likely to threaten its survival or cause its significant decline in New South Wales; and 35

Threatened Species Conservation 1993

(c) the process of listing required under this Division will not be completed prior to the commencement of the activity,

the Director-General must immediately provisionally list that species or community in Schedule 2 or 3 by publication of a notice to that effect in the Gazette.

(2) As soon as practicable after provisional listing, the Committee is to review the status of the species or community in accordance with sections 16 and 17 (as if the species or community had been nominated for listing) and is to identify any threatening processes in the notifications required under those sections. Provisional listing ceases to have effect when the Committee makes its recommendation to the Director-General on the nomination.

(3) Any person may nominate any species or community for provisional listing in Schedule 2 or 3.

(4) A nomination is to be made to the Committee and must include any prescribed information and be in writing addressed to the Secretary of the Committee.

Division 2—Critical habitats, threatening processes and monitoring

20 Determination of critical habitats

19. (1) As soon as practicable after listing in Schedule 2 and in any case within 1 year, the Committee is to determine, on the best available scientific information, the critical habitat for each species or community of flora and fauna so listed.

(2) The critical habitat is the whole or any part or parts of the habitat which is likely to be essential for the survival and recovery of that species or community.

(3) The Committee may determine that a specific area outside the habitat of a species or community is critical habitat for the purposes of this Act.

(4) The Committee is to:

(a) advertise its determination in a newspaper circulating generally throughout the State and a newspaper circulating in the region where the critical habitat occurs; and

(b) publish notice of the determination in the Gazette.

Threatened Species Conservation 1993

- (5) The Committee need not comply with subsection (4) (a) and (b) if:
- (a) the Committee is of the opinion that to disclose the location of the habitat would result in an unreasonable level of harm being done to it and to the flora and fauna which it supports; or
 - (b) the landholder of the land concerned requests that the information be withheld and the Minister approves the withholding of the information. 5
- (6) The Committee may amend a determination.
- (7) Any person may propose an amendment of a determination of critical habitat. 10
- (8) A proposal for amendment is to be made to the Committee and must include any prescribed information and be in writing addressed to the Secretary of the Committee.
- (9) Upon the Committee's amendment of a determination, it is to notify those persons who were given notice of the making of the determination and publish notice in the Gazette. 15
- (10) The Director-General is to keep a register of critical habitats.
- (11) If, in the opinion of the Director-General, any activity being or about to be carried out will damage or destroy a critical habitat and will threaten the survival of the species or community concerned, the Director-General must take such action under section 39 (Stop work orders) as may be necessary to prevent that damage or destruction. 20
- Determination of threatening processes**
20. (1) As soon as practicable after listing in Schedule 2 or 3 and in any case within 1 year, the Committee is to determine, on the best available scientific information, the threatening process or processes for each species or community, or adversely affecting two or more species or communities. 25
- (2) Schedule 5 contains a list of threatening processes that adversely affects two or more species or communities in Schedule 2 or 3. 30
- (3) The Committee is to:
- (a) advertise its determination in a newspaper circulating generally throughout the State; and
 - (b) publish notice of the determination in the Gazette, adding an item to Schedule 5. 35
- (4) The Committee may amend a determination.

Threatened Species Conservation 1993

(5) Any person may propose an amendment to a determination of threatening processes.

(6) A proposal for amendment is to be made to the Committee and must include any prescribed information and be in writing addressed to the Secretary of the Committee.

(7) Upon the Committee's amendment of a determination it is to publish a notice in the Gazette and in a newspaper circulating generally throughout the State.

Monitoring

21. (1) When a species or community of flora or fauna is listed in Schedule 3, the Committee must establish a monitoring system for the species or community within 1 year of listing of the species.

(2) The Committee is to regularly review monitoring data to assess whether a species or community listed in Schedule 3 should be listed in Schedule 2.

(3) If a species or community listed in Schedule 3 should, in the opinion of the Committee, be listed in Schedule 2, the Committee is to list the species or community in accordance with sections 16 and 17.

(4) The Committee is to request the Director-General that action plans be devised for species or communities or groups of species or communities listed in Schedule 3 whose condition is likely to deteriorate.

Division 3—Species and communities presumed extinct

The list

22. (1) Schedule 4 contains a list of species and communities of flora and fauna which are presumed extinct.

(2) The Director-General must upon the recommendation of the Committee and by order published in the Gazette add an item to Schedule 4 or amend an item in or repeal an item from Schedule 4.

(3) An order made under subsection (2) is to be laid before each House of Parliament within 7 sitting days after its making.

(4) A species or community of flora or fauna is eligible to be listed if it is no longer known to exist in the wild in New South Wales after repeated searches of the known or likely areas of occurrence or if there have been no reliable observations of that species or community for at least 50 years.

Threatened Species Conservation 1993

(5) If the Committee proposes to make a recommendation to the Director-General it must advertise the proposed recommendation and the reasons for it in a newspaper circulating generally throughout the State.

(6) After advertising its preliminary recommendation, the Committee is to allow at least 30 days to elapse for public comment to be made and is to consider any public comments which are made during that time before making its recommendation.

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(7) The Committee is to decide whether or not to recommend to the Director-General that the addition, amendment or repeal be made and the Committee is to publish reasons for that decision in the Gazette and in a newspaper circulating generally throughout the State make available its reasons for the decision on payment of such reasonable fee as the Director-General determines.

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(8) If a species in Schedule 4 is rediscovered then the Committee is to provisionally list it in Schedule 2 under section 18.

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PART 4—RECOVERY PLANS

Procedure for making recovery plans

23. (1) The Minister is to make a recovery plan for each species or a group of species or community of flora or fauna within three years of its being listed in Schedule 2.

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(2) Before making a recovery plan, the Director-General is to prepare a draft recovery plan and is to consult on the draft plan with a Recovery Team established by the Director-General for the purpose, comprising representatives from relevant Government Departments and agencies, affected landowners and appropriate experts.

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(3) The Director-General is to give notice of the preparation of a draft recovery plan by publishing notice of the preparation of a draft recovery plan in a newspaper circulating generally throughout the State.

(4) A notice is to:

(a) be in the prescribed form; and

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(b) state the date by which submissions may be made to the Director-General, which is to be at least 30 days after the date on which the notice is published; and

Threatened Species Conservation 1993

- (c) specify the manner in which submissions may be made; and
- (d) fix a time and place at which a copy of the draft plan will be available to the public for inspection.
- (5) Any person may make submissions to the Director-General about a draft recovery plan and the Director-General is to acknowledge receipt of each submission.
- (6) After considering all the submissions made within the period set out in the notice, the Director-General is to submit a final draft recovery plan, and any submissions on the plan, to the Committee.
- 10 (7) The Committee is to review and may amend the final draft recovery plan.
- (8) Where the Minister does not make the recovery plan as amended by the Committee and submitted by the Director-General, the Minister is to provide reasons in the recovery plan.
- 15 (9) After the recovery plan has been made, the Minister is to give notice of its making in the same way as notice was given under subsection (3) and is to publish notice of its making in the Gazette.
- (10) The Director-General is to commence to implement each plan as soon as is practicable and in any case within 3 months of its making.
- 20 (11) In preparing recovery plans, the Director-General is to assign the highest priority to those species or communities:
 - (a) most likely to benefit from such plans, particularly those species or communities that are, or may be, in conflict with development projects or other activities; and
 - 25 (b) not adequately protected outside New South Wales.

Amendment and revocation of recovery plans

- 24. (1) The Minister may amend or revoke a recovery plan.
- (2) The procedures applicable to the making of a recovery plan apply to the revocation of a recovery plan or the making of an amendment to a recovery plan which is not a minor amendment.
- 30

Contents of recovery plans

- 25. (1) A recovery plan is to state:
 - (a) the species or community of flora or fauna to which it applies; and
 - (b) its critical habitat; and

Threatened Species Conservation 1993

- (c) the threatening process or processes pertaining to that species or community; and
 - (d) what must be done to ensure the recovery of that species or community to a position of viability in the wild; and
 - (e) what must be done to protect the critical habitat; and 5
 - (f) in relation to the objects of this Act:
 - (i) the way in which those objects are to be implemented or promoted for the benefit of that species or community; and
 - (ii) the method by which progress towards achieving those objects can be assessed; and 10
 - (g) the date by which the recovery plan should be subject to review by the Director-General and the Committee; and
 - (h) the reasons for the Minister failing to make the recovery plan as amended by the Committee and submitted by the Director-General.
 - (2) Despite anything in this or any other Act or in any instrument made under this or any other Act, if the Minister has made a recovery plan the Minister is bound to implement that plan. 15
 - (3) The Director-General may enlist the services of appropriate persons or public authorities as part of a team to implement a recovery plan.
 - (4) The Committee is to review the implementation of each recovery plan annually and advise the Director-General of any deficiencies in implementation and is to incorporate its findings in its annual report to Parliament. 20
- Review of recovery plans**
26. The Director-General is to review a recovery plan before the date fixed under section 25 (1) (g). 25

PART 5—IMPACT OF ACTIVITIES

Offences concerning Schedule 2 species and communities

27. (1) A person must not:
- (a) take or kill any species or community listed in Schedule 2; or 30
 - (b) use any animal, firearm, explosive, net, trap, hunting device or instrument or means whatever for the purpose of taking or killing any species or community listed in Schedule 2.
- Maximum penalty: 1,000 penalty units or imprisonment for 2 years or both. 35

Threatened Species Conservation 1993

(2) A person is not to be convicted of an offence arising under this section or under the National Parks and Wildlife Act 1974 if the person proves that the act constituting the offence was done under and in accordance with or by virtue of the authority conferred by a licence under this Part.

(3) A licence under this Part to take or kill a species of fish listed in Schedule 2 is required only where the need for a licence is specified in a recovery plan or action plan.

(4) Except as provided by subsection (2), this section does not limit the operation of the National Parks and Wildlife Act 1974.

(5) Where the provisions of any other Act or instrument under any other Act authorise or require anything to be done which would constitute an offence arising under this section:

(a) the provisions of this section prevail except where the other Act is the Bush Fires Act 1949; and

(b) a person is not to be convicted of an offence against that other Act or instrument by reason of the person's failure to comply therewith insofar as compliance therewith would constitute an offence arising under subsection (1).

(6) A licence or authority in force under section 120 or 171 of the National Parks and Wildlife Act 1974 immediately before the commencement of this section is for the purposes of this section taken to be a licence under this Part for the duration of its term.

(7) Despite subsection (6), the Director-General may require a person to hold a licence for plants and communities under this Part.

Further provisions respecting taking or killing species listed in Schedule 2

28. A person is not to be convicted of an offence arising under section 27 (1) if the person proves:

(a) that the animal concerned was in some person's lawful possession and that the act constituting the offence was, having regard to the circumstances of the case reasonably necessary for promoting the welfare of the animal; or

(b) that the animal concerned had strayed or escaped from some person's lawful possession and that the act constituting the offence was, having regard to the circumstances of the case, reasonably necessary for securing the return of the animal.

Threatened Species Conservation 1993

Licences

29. (1) The Director-General may issue a licence authorising a person to:

- (a) take or kill any species or community listed in Schedule 2; or
- (b) use any animal, firearm, explosive, net, trap, hunting device or instrument or means whatever for the purpose of taking or killing any species or community listed in Schedule 2. 5

(2) Any application for a licence is to take into account the relevant recovery plan or action plan, prepared under this Act.

(3) The terms and conditions of a licence are to comply with any relevant recovery plan or action plan prepared under this Act, but may also contain additional conditions in conformity with the objectives of this Act. 10

(4) For the purposes of deciding significant modification of the habitat of a taxon which is likely to affect it adversely or (in regard to fauna) may adversely affect its essential behaviour patterns, the following factors must be taken into account: 15

- (a) the extent of modification or removal of habitat in relation to the same habitat type in the locality;
- (b) the sensitivity of the species or community to removal or modification of its habitat; 20
- (c) the time required to regenerate critical habitat;
- (d) the effect on the ability of the species population or community to recover, including interactions between the subject land and adjacent habitat that may influence the population beyond the area proposed for development or activities; 25
- (e) any proposal to ameliorate the impact;
- (f) whether the land is currently being assessed for wilderness by the Director-General under the Wilderness Act 1987;
- (g) any adverse effect on the survival of the species or the community or that population of plant or animal. 30

Licence applications

30. (1) An application for a licence must be accompanied by:

- (a) a threatened species impact statement prepared in accordance with section 35; and 35
- (b) an application fee of \$200.

Threatened Species Conservation 1993

(2) The Director-General is to levy a processing fee, being an amount not more than the costs (including on-costs) incurred by the Service in the assessment and processing of the application (whether or not it is successful) and the fee is recoverable by the Director-General as a debt due to the Crown in a court of competent jurisdiction. The Director-General may, before dealing with the application, require the applicant to pay an amount not exceeding one-half of the estimated processing fee.

(3) The Director-General may reduce the amount of a processing fee levied for any licence application having regard to the following:

- (a) the extent of scientific examination necessary for the processing of the licence application;
- (b) the adequacy of any threatened species impact statement or environmental impact statement supplied by the applicant;
- (c) the capacity of the applicant or persons with whom the applicant is associated to meet the fee levied;
- (d) whether and to what extent the activity sought to be licensed may confer a commercial benefit on the applicant if the licence is granted.

20 **Consideration of applications**

31. (1) On receipt of an application, the Director-General must cause to be placed in a newspaper circulating statewide a notice:

- (a) outlining the nature of the application;
- (b) stating the locations at which copies of the threatened species impact statement may be inspected or purchased; and
- (c) inviting public submissions within a period of not less than 28 days of the date of the notice.

(2) In considering an application, the Director-General must take into account the following:

- (a) any threatened species impact statement or environmental impact statement;
- (b) any submissions received within the period specified under subsection (1);
- (c) the criteria referred to in section 13 (3); and
- (d) any reasons provided pursuant to section 17,

and may require any further information concerning the proposed action and the environment to be affected from the applicant or from any public authority.

Threatened Species Conservation 1993

(3) In deciding whether to reject or grant the application, the Director-General may consider any modifications to the action including the development of a recovery plan.

Grant of licence applications

32. (1) The Director-General may grant an application for a licence or refuse the application, but must not grant the application until the processing fee levied has been paid. 5

(2) The Director-General is to notify the applicant and any person who has made a submission under section 31 of the Director-General's decision and the reasons for it. 10

(3) All information concerning a species or community supplied to the Director-General in support of a licence application is to be made freely available to the public, subject to section 51 (Secrecy).

(4) A licence granted under this section is a temporary licence which ceases to have effect on the expiration of 120 days after its issue. 15

Notice of grant of licence

33. (1) Within 14 days after the grant of a licence under this Part, the Director-General is required to publish in the Gazette notice of the decision to grant the licence.

(2) The Director-General is required to make available for public inspection the Director-General's reasons for granting the licence and a person is entitled to a copy of those reasons on payment of such reasonable fee as the Director-General determines. 20

Appeals

34. (1) An applicant for a licence under this Part or any person who has made a submission pursuant to section 31, if dissatisfied with the Director-General's decision on the application, may appeal to the Land and Environment Court. 25

(2) In determining an appeal, the Court must take into account the factors set out in section 31 (2), but this does not limit section 39 of the Land and Environment Court Act 1979. 30

(3) An appeal may be made by a person only within 28 days after the Director-General notified the person of the decision concerned pursuant to section 32.

Threatened Species Conservation 1993

(4) A licence has no operation until the expiration of the period for the making of an appeal or (if an appeal is commenced within that time) until the appeal is withdrawn or determined.

- 5 (5) Where the Director-General fails to grant an application for a licence under this Part, the application is taken to have been refused upon the expiration of 40 days (or such longer period as the Director-General may notify the applicant is required to consider an application in a particular case) after the application was received by the Director-General.

10 **Threatened species impact statements**

35. (1) A threatened species impact statement must:

(a) be in writing; and

(b) be signed by the person who prepared it; and

(c) include, to the fullest extent reasonably practicable, the following:

- 15 (i) a full description of the species or community to be affected by the actions and the habitat used by the species or community;
- 20 (ii) an assessment of the regional and statewide distribution of the species and the habitat to be affected by the actions and any environmental pressures on them;
- 25 (iii) a description of the actions and how they will modify the environment and affect the essential behavioural patterns of the species or community in the short and long term where long term encompasses the time required to regenerate essential habitat components;
- (iv) details of the measures to be taken to ameliorate the impact;
- 30 (v) details of the qualifications and experience in biological science and fauna management of the person preparing the statement and of any other person who has conducted research or investigations relied upon.

(2) The person preparing the statement must consult with the Director-General and must, in preparing the statement, have regard to any requirements notified to him or her by the Director-General in respect of the form and content of the statement.

- 35 (3) The Director-General must notify any requirements pursuant to subsection (2) within 28 days of the consultation.

Threatened Species Conservation 1993

(4) Despite sections 77 (3) (d1) and 112 (1B) of the Environmental Planning and Assessment Act 1979, if an environmental impact statement has been prepared pursuant to that Act which addresses the matters set out in subsection (1), no separate threatened species impact statement is required.

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(5) A fauna impact statement in the course of preparation and substantially completed in accordance with section 92D of the National Parks and Wildlife Act 1974 at the commencement of this Act is taken to have been prepared as a threatened species impact statement in accordance with this section.

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Conditions and restrictions attaching to licences

36. (1) A licence issued under this Part is subject to such conditions and restrictions (if any) as are for the time being imposed on the licence under this Part or prescribed in relation to licences of the class to which the licence belongs.

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(2) The Director-General may, if the Director-General thinks fit, attach any conditions or restrictions to a licence upon its issue.

(3) The Director-General may, by notice in writing served on the holder of a licence:

(a) attach any conditions or restrictions to the licence after its issue; or

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(b) vary or remove any conditions or restrictions attached by the Director-General to the licence; or

(c) otherwise vary the licence.

(4) The holder of a licence must not contravene any condition or restriction attached to the licence.

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Maximum penalty: 1,000 penalty units or imprisonment for 2 years or both.

(5) A licence issued under this Part may be cancelled by the Minister or the Director-General.

Taking and killing Schedule 3 species and communities

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37. Section 98 (2) of the National Parks and Wildlife Act 1974 does not apply to those species and communities listed in Schedule 3, in relation to things which are essential for the carrying out of:

(a) development in accordance with a development consent within the meaning of the Environmental Planning and Assessment Act 1979; or

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Threatened Species Conservation 1993

- (b) an activity whether by a determining authority or pursuant to an approval of a determining authority within the meaning of Part 5 of that Act if the determining authority has complied with that Part, so long as the development or activity conforms with any direction to any person or authority in an action plan and the consent authority takes the plan into account in making its determination.

Consent authority to advise Director-General in relation to Schedule 3 species and communities

38. Where a consent authority is of the opinion that any species or community listed in Schedule 3 is likely to be taken or killed within the meaning of this Act by any development or activity, it must advise the Director-General and seek the Director-General's comment.

Stop work orders

39. (1) If the Minister or the Director-General is of the opinion that any action is likely to significantly affect the environment of any species or community listed in Schedule 2, and such action is being or is about to be carried out, the Minister or Director-General may order that any such action is to cease and that no action, other than such action as may be specified in that order, is to be carried out with respect to that environment within a period of 40 days after the date of that order.

- (2) An order made under subsection (1) takes effect on and from the date on which a copy of that order is affixed in a conspicuous place in the environment or place the subject of that order or the persons performing or about to perform the action are notified that an order has been made, whichever is the sooner.

- (3) When the Minister or Director-General makes an order under subsection (1), he or she must immediately consult with the person or persons proposing to perform the action to determine whether any modification of the action may be sufficient to protect the environment of any species or community listed in Schedule 2.

- (4) The Minister or Director-General may extend an order made pursuant to subsection (1) for such further period or periods of 40 days as the Minister or Director-General thinks fit.

- (5) If, in the opinion of the Minister or the Director-General, satisfactory provisions cannot be made to protect the environment the subject of an order under subsection (1), he or she must make, or in the case of the Director-General recommend the making of, an interim protection order under Part 6A of the National Parks and Wildlife Act 1974.

Threatened Species Conservation 1993

(6) The Minister or Director-General is not required, before making an order pursuant to subsection (1), to notify any person who may be affected by the order.

(7) When an order made pursuant to subsection (1) is in force in relation to an environment, an approval, notice or order (whether made or issued before or after the order pursuant to subsection (1)) under any other Act which requires or permits the environment to be significantly affected is void to the extent of the inconsistency with the order. 5

Protection of critical habitats

40. (1) Within one month after the notification of a critical habitat under section 19, the Director-General must begin discussions to protect that habitat with any person (including the landowner) undertaking an activity likely to damage or destroy that habitat or threaten the survival of the species or community for which the habitat was designated. 10

(2) If, before the expiry of 5 months after the notification of a critical habitat, the Director-General is of the opinion that the activity is likely to continue and likely to damage or destroy that habitat or threaten the survival of the species or community for which the habitat was designated, the Director-General must require the person undertaking the activity: 15

(a) to apply for a licence under this Part; or

(b) cease that activity and forthwith enter into negotiations for a management contract under section 41. 20

(3) The Director-General may also impose a stop work order under this Act. 25

Management contracts

41. (1) The Director-General may enter into a contract with one or more persons or public authorities to provide for the management, control or prohibition of any activity threatening the survival of a species or community or group of species or communities listed in Schedule 2 or 3. 30

(2) The contract referred to in subsection (1) above is to provide for the areas covered by the agreement to be kept and maintained to the fullest extent possible in a manner which will ensure its continuing and undiminished role as a community and habitat for a taxon.

(3) The Director-General is to publish notice of the making of the draft contract in the Gazette and a newspaper circulating generally throughout the State. 35

Threatened Species Conservation 1993

- (4) A notice must:
- (a) be in the prescribed form; and
 - (b) state the date by which submissions may be made to the Director-General which is to be at least 30 days after the date on which the notice is published; and
 - (c) specify the manner in which submissions must be made; and
 - (d) fix a time and place at which a copy of the draft management contract will be available to the public for inspection.
- (5) Any person may make submissions to the Director-General about the draft management contract.
- (6) After considering all the submissions, the Director-General is to prepare a final management contract.
- (7) The Committee is to review all management contracts before they are entered into and may amend them as it sees fit.
- (8) The contract is to set out its purposes and aims, the duties and areas of responsibility of the parties to the contract and its commencement date.
- (9) A contract may only be changed or terminated by mutual agreement between the parties or according to the terms of the contract.
- (10) A contract is binding on all parties to the contract.
- (11) The Committee is to review annually the performance of all parties in meeting the terms of a contract and is to advise the Director-General of any deficiencies and is to incorporate its findings in its annual report to Parliament.
- (12) The Director-General may require any person or public authority to provide security for the satisfactory performance of obligations set out in a contract.

PART 6—BIOLOGICAL DIVERSITY STRATEGY

The Strategy

42. (1) The Director-General is to prepare a Biological Diversity Strategy within 12 months after the commencement of this Act setting out how the objects of this Act are to be achieved.
- (2) The Strategy is to include proposals for:
- (a) ensuring the survival and evolutionary development in the wild of all species and communities of flora and fauna, and including appropriate protection under the Wilderness Act 1987 or the National Parks and Wildlife Act 1974; and

Threatened Species Conservation 1993

- (b) preparing or contributing to the preparation of strategies for ecologically sustainable development in New South Wales; and
- (c) an education program targeted at the community and public authorities; and
- (d) a biodiversity research program.

5

(3) The Director-General may amend the Strategy.

Procedure for making or amending the Strategy

43. (1) The Director-General is to prepare a draft Strategy and publish notice of the draft Strategy in a newspaper circulating generally throughout the State.

10

(2) A notice is to:

- (a) be in the prescribed form; and
- (b) state the date by which submissions may be made to the Director-General, which is to be at least 30 days after the date on which the notice is published; and

15

- (c) specify the manner in which submissions may be made; and
- (d) fix a time and place at which a copy of the draft Strategy will be available to the public for inspection.

(3) Any person may make submissions to the Director-General about the draft Strategy.

20

(4) The Director-General may, upon the expiration of the period referred to in subsection (2) and examination of submissions made, amend the Strategy and is to refer the Strategy and any submissions made to the Committee for its consideration and advice.

(5) Before adopting the Strategy, the Director-General is to consider the comments and suggestions of the Committee and is to seek the advice of any other relevant government agency.

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(6) The Director-General may adopt the Strategy without alteration or with such alterations as he or she thinks fit.

(7) After the Strategy has been adopted, the Director-General is to publish notice of its making in the Gazette and in a newspaper circulating generally throughout the State.

30

(8) The procedures applicable to the making of the Strategy apply to the making of an amendment to the Strategy which is not a minor amendment.

PART 7—MANAGEMENT OF THREATENING PROCESSES

5 Identification of threatening processes

44. The Director-General and the Committee are to identify threatening processes which:

- (a) affect more than one species or community in Schedule 2 or 3; or
- (b) operate across a geographic or administrative region; or
- 10 (c) will cause the condition of a species or community listed in Schedule 3 to deteriorate.

Procedure for making action plans

45. (1) After consultation with relevant public authorities and persons, the Director-General is to prepare a draft action plan for each
15 process identified under section 44.

(2) The Director-General is to give notice of the preparation of a draft action plan by giving notice of the preparation of a draft action plan in the Gazette and in a newspaper circulating generally throughout the State.

(3) A notice is to:

- 20 (a) be in the prescribed form; and
- (b) state the date by which submissions may be made to the Director-General, which is to be at least 30 days after the date on which the notice is published; and
- (c) specify the manner in which submissions may be made; and
- 25 (d) fix a time and a place at which a copy of the draft plan will be available to the public for inspection.

(4) Any person may make a submission to the Director-General about a draft action plan and the Director-General is to acknowledge receipt of each submission.

30 (5) After considering all the submissions made within the period set out in the notice, the Director-General is to prepare a final action plan.

(6) The Director-General is to forward a copy of the final plan to the Committee for its review.

Threatened Species Conservation 1993

(7) The Committee is to review the plan and may make recommendations to the Director-General for its amendment.

(8) The Minister is to make the action plan after taking into account any recommendations made by the Committee.

(9) Where the Minister does not make the action plan as submitted by the Director-General or does not give effect to a recommendation of the Committee, the Minister is to provide reasons in the action plan. 5

(10) After the action plan has been made, the Minister is to publish notice of its making in the Gazette and in a newspaper circulating generally throughout the State. 10

Amendment and revocation of action plans

46. (1) The Minister may amend or revoke an action plan.

(2) The procedure applicable to the making of an action plan applies to the revocation of an action plan or the making of an amendment to the action plan which is not a minor amendment. 15

Contents of action plans

47. (1) An action plan is to state:

- (a) the threatening process to which it applies; and
- (b) the area over which it applies; and
- (c) what must be done to eliminate or mitigate the impact of that threatening process; and 20
- (d) the persons or public authorities who are bound by the plan; and
- (e) the date by which the action plan should be subject to review by the Director-General.

(2) Despite anything in this or any other Act or in any instrument made under this or any other Act, where the Minister has made an action plan the Minister and the Director-General are bound to implement that plan. 25

Review of action plans

48. The Director-General is to review an action plan before the date fixed under section 47 (1) (e). 30

PART 8—GENERAL**Restoration**

49. If a person is convicted of an offence under this Act involving the destruction of or damage to a species or community of flora or fauna listed in Schedule 2 or 3 or a critical habitat, the Court may order that person:

(a) to carry out restoration work; and

(b) to provide security for the performance of that work,

and this order may be in addition to or in substitution for any other penalty.

Payment of compensation by offender

50. (1) If a person is convicted of an offence under this Act involving the destruction of or damage to a species or community of flora or fauna listed in Schedule 2 or 3 or a critical habitat, the Court may order that person to pay compensation for that destruction or damage to the Director-General in addition to any other penalty.

(2) The amount of compensation payable under subsection (1) may be fixed by the Court after taking evidence on oath from any person who may assist the Court to determine the nature and extent of the damage.

(3) In fixing the amount of compensation to be paid, the Court is to have regard to the cost of any restoration work required to be carried out as a result of the offence.

Secrecy

51. (1) The Director-General with the approval of the Minister may declare information about flora or fauna to be confidential if the Director-General is of the opinion that the disclosure of that information is likely to result in an unreasonable level of harm being done to the flora or fauna or a critical habitat.

(2) If in the course of performing duties under this Act a person obtains information which has been declared to be confidential, that person must not disclose or make use of that information except to the extent necessary to perform that person's duties or for the purpose of legal proceedings.

Maximum penalty: 50 penalty units.

Threatened Species Conservation 1993

Restraint of breaches of Act

52. (1) Any person may bring proceedings in the Court for an order to remedy or restrain a breach of this Act, whether or not any right of that person has been or may be infringed by or as a consequence of that breach.

5

(2) Any person may bring proceedings in the Court for an order to remedy a failure by the Director-General to comply with section 8 (1) or a failure to perform any act or duty under this Act which is not discretionary.

(3) Proceedings under this section may be brought by a person on the person's own behalf or on behalf of another person (with their consent), or a body corporate or unincorporated (with the consent of its committee or other controlling or governing body), having like to common interests in those proceedings.

10

(4) Any person on whose behalf proceedings are brought is entitled to contribute to or provide for the payment of the legal costs and expenses incurred by the person bringing the proceedings.

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Matters to be put in annual report

53. The annual report of the Service is to set out the activities undertaken by the Service within the reporting year to further the purposes of this Act, including:

20

- (a) an assessment of the progress made toward achieving the objects of this Act; and
- (b) any prescribed matters.

Co-operative agreements

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54. (1) The Director-General may enter into co-operative agreements with any person or public authority to achieve the objects of this Act.

(2) The Director-General may enter into co-operative agreements with any Federal Government authority to assist in meeting Australia's obligations under international treaties or conventions pertaining to the conservation of threatened species.

30

Protection from liability

55. Any matter or thing done by the Minister, the Director-General, a member of the Committee or any member of staff of the Service does not, if the matter or thing was done in good faith for the purposes of executing this Act, subject such a person personally to any action, liability, claim or demand.

35

Proceedings for offences

56. (1) Proceedings for an offence under this Act or the regulations are to be disposed of summarily before:

- (a) a Local Court constituted by a Magistrate; or
- 5 (b) the Land and Environment Court in its summary jurisdiction.

(2) Despite any provision of the Justices Act 1902 or any other Act, proceedings for an offence against this Act or the regulations may be commenced not later than 3 years after the date alleged to be the date on which the offence was committed.

- 10 (3) Proceedings may be taken and prosecuted only by a person acting with the authority of the Director-General.

- (4) The maximum pecuniary penalty that may be imposed by a Local Court in proceedings for an offence under this Act or the regulations is 100 penalty units or the maximum penalty applicable to the offence,
15 whichever is less.

(5) In proceedings for an offence, a certificate by the Director-General or the Minister as to the granting of authority or consent to prosecute is evidence of that authority or consent.

Offences by corporations

- 20 57. (1) If a corporation contravenes any provision of this Act, each person who is a director of the corporation or who is concerned in the management of the corporation is to be taken to have contravened the same provision if the person knowingly authorised or permitted the contravention.

- 25 (2) A person may be proceeded against and convicted under a provision pursuant to subsection (1) whether or not the corporation has been proceeded against or convicted under that provision.

(3) Nothing in this section affects any liability imposed on a corporation for an offence committed by the corporation against this Act.

30 Regulations

58. The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.

Threatened Species Conservation 1993

Amendment of certain Acts

59. The Acts listed in Schedule 7 are amended as set out in that Schedule.

Amendment of Environmental Planning and Assessment Regulation 1980

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60. The Environmental Planning and Assessment Regulation 1980 is amended as set out in Schedule 8.

Threatened Species Conservation 1993

**SCHEDULE 1—SPECIES OF FLORA AND FAUNA EXCLUDED
FROM THE ACT**

(Sec. 5)

**5 SCHEDULE 2—ENDANGERED OR VULNERABLE OR RARE SPECIES
AND COMMUNITIES**

(Sec. 12 (1))

FISH

	Eastern Freshwater Cod	(<i>Maccullochella ikei</i>)	Endangered
	Trout Cod	(<i>Maccullochella macquariensis</i>)	Endangered
10	Murray hardyhead	(<i>Craterocephalus fluvlatilis</i>)	Vulnerable
	Australian Grayling	(<i>Prototroctes maraena</i>)	Vulnerable
	Oxleyan Pygmy Perch	(<i>Nannoperca oxleyana</i>)	Vulnerable
	Southern Bluefin Tuna	(<i>Thunnus maccoyii</i>)	Vulnerable
	Macquarie Perch	(<i>Macquaria australasica</i>)	Rare
15	Non-Parasitic Lamprey	(<i>Mordacia praecox</i>)	Rare
	Purple Spotted Gudgeon	(<i>Mogurnda adspersa</i>)	Rare
	River Blackfish	(<i>Gadopsis marmoratus</i>)	Rare
	Great White Shark	(<i>Carcharodon Carcharias</i>)	Rare
	Grey Nurse Shark	(<i>Eugomphodus taurus</i>)	Rare
20	Herbst's Shark	(<i>Ondotapsis herbsti</i>)	Rare
	Basking Shark	(<i>Cetorhinus maximus</i>)	Rare
	Gem Fish	(<i>Rexa solandri</i>)	
	Black Cod	(<i>Epinephelus damelii</i>)	Rare

PLANTS

25 ENDANGERED

Acrornychia littoralis
Allocasuarina defungans
Allocasuarina portuensis
Apatophyllum constablei

30 Asterclasia elegans

Astrotricha roddii
Austromyrtus fragrantissima
Boronia granitica
Caladenia rosella

35 Corchorus cunninghamii

Cynanchum elegans
Davidsonia sp. Mullumbimby-Currumbin Ck (A.G. Floyd 1595)
Deyeuxia appressa
Digitaria porrecta

40 Diospyros mabacea

Threatened Species Conservation 1993

SCHEDULE 2—ENDANGERED OR VULNERABLE OR RARE SPECIES AND
COMMUNITIES—*continued*

<i>Diploglottis campbellii</i>	
<i>Diuris pallens</i>	
<i>Elaeocarpus williamsianus</i>	5
<i>Endiandra floydii</i>	
<i>Epacris hamoltonii</i>	
<i>Eripacaulon carsonii</i>	
<i>Eucalyptus recurva</i>	
<i>Euphrasia collina</i> subsp. <i>muelleri</i>	10
<i>Fontainea oraria</i>	
<i>Genoplesium rhyoliticum</i>	
<i>Gentiana baeuerlenii</i>	
<i>Gentiana wingecarribiensis</i>	
<i>Grevillea beadleana</i>	15
<i>Grevillea caleyi</i>	
<i>Grevillea iaspicula</i>	
<i>Grevillea wilkinsonii</i> Maxinson ms	
<i>Hakea pulvinifera</i>	
<i>Haloragodendron lucasii</i>	20
<i>Homoholis bezsonii</i>	
<i>Isoglossa eranthemoides</i>	
<i>Kunzea rupestris</i>	
<i>Lepidium hyssopifolium</i>	
<i>Lepidium monoplocoides</i>	25
<i>Marsdenia longiloba</i>	
<i>Ochrosia moprei</i>	
<i>Olearia flocktoniae</i>	
<i>Persoonia nutans</i>	
<i>Phebalium lachnaeoides</i>	30
<i>Pinelea spicata</i>	
<i>Prasophyllum petilum</i>	
<i>Prasophyllum uroglossum</i>	
<i>Pterostylis gibbosa</i>	
<i>Quassia</i> sp. Mooney Creek (J. King s.n. 1949)	35
<i>Randia moorei</i>	
<i>Rutidosis leptorhynchoides</i>	
<i>Swainsona recta</i>	
<i>Tylophora linearis</i>	
<i>Tylophora woollsii</i>	40
<i>Uronyrtus australis</i>	
<i>Zieria adonephora</i>	
<i>Zieria baeuerlineae</i> Armstrong ms	
<i>Zieria formosa</i> Briggs & Armstrong ms	
<i>Zieria obcordata</i>	45
<i>Zieria parrisiae</i> Briggs & Armstrong ms	
<i>Zieria prostrata</i> Armstrong ms	

Threatened Species Conservation 1993

SCHEDULE 2—ENDANGERED OR VULNERABLE OR RARE SPECIES AND
COMMUNITIES—*continued*

VULNERABLE OR RARE

- 5 *Acacia bynoeana*
- Acacia carnei*
- Acacia clunies-rossiae*
- Acacia constablei*
- Acacia courtii*
- Acacia flocktoniae*
- 10 *Acacia georgensis*
- Acacia phasmoides*
- Acacia pubescens*
- Acacia rupprii*
- Acrophyllum australe*
- 15 *Allocasuarina glareicola*
- Ammobium craspedioides*
- Amorphospermum whitei*
- Amphibromus fluitans*
- Angophora robur*
- 20 *Arthraxon hispidus*
- Asperu .. asthenes*
- Atriplex infrequens*
- Baloghia marmocrata*
- Bertya ingramii* T. James ms
- 25 *Boronia deanei*
- Bosistoa selwynii*
- Bosistoa t-ansversa*
- Bossiaea oligosperma*
- Bothricchloa biloba*
- 30 *Brachyscome muelleroides*
- Brachyscome papillosa*
- Budawangia gnidioides*
- Bulbophyllum globuliforme*
- Cadellia pentastylis*
- 35 *Calandenia tessellata*
- Callitriche cyclocarpa*
- Callitris oblonga*
- Caloties glandulosa*
- Calotis moorei*
- 40 *Clematis fawcettii*
- Corokia whiteana*
- Correa baeuerlenii*
- Cryptocarya foetida*
- Cryptostylis hunteriana*
- 45 *Darwinia biflora*
- Desmodium acanthocladum*

Threatened Species Conservation 1993

SCHEDULE 2—ENDANGERED OR VULNERABLE OR RARE SPECIES AND
COMMUNITIES—*continued*

<i>Dichanthium setosum</i>	
<i>Dillwynia tenuifolia</i>	
<i>Ditris aequalis</i>	5
<i>Diuris praecox</i> D. Jones ms	
<i>Diuris sheaffiana</i>	
<i>Diuris venosa</i>	
<i>Eleocharis obicis</i>	
<i>Endiandra hayesii</i>	10
<i>Eriocaulon australasicum</i>	
<i>Eriastemon ericifolius</i>	
<i>Erythranthera pumila</i>	
<i>Eucalyptus aquatica</i>	
<i>Eucalyptus benthamii</i>	15
<i>Eucalyptus camfieldii</i>	
<i>Eucalyptus glaucina</i>	
<i>Eucalyptus imlayensis</i>	
<i>Eucalyptus kartzoffiana</i>	
<i>Eucalyptus langleyi</i>	20
<i>Eucalyptus macrorrhyncha</i> subsp. <i>cannonii</i>	
<i>Eucalyptus mckieana</i>	
<i>Eucalyptus nicholii</i>	
<i>Eucalyptus parramattensis</i> subsp. <i>decadens</i>	
<i>Eucalyptus parvifolia</i>	25
<i>Eucalyptus pulverulenta</i>	
<i>Eucalyptus pumila</i>	
<i>Eucalyptus robertsonii</i> subsp. <i>hamaespherica</i>	
<i>Eucalyptus rubida</i> subsp. <i>barbigororum</i>	
<i>Eucalyptus sturgissiana</i>	30
<i>Eucalyptus tetrapleura</i>	
<i>Euphrasia bella</i>	
<i>Floydia praealta</i>	
<i>Fontainea australis</i>	
<i>Gentiana bredboensis</i>	35
<i>Goodenia macbarronii</i>	
<i>Grevillea evansiana</i>	
<i>Grevillea kennedyana</i>	
<i>Grevillea rivularis</i>	
<i>Grevillea scortechinii</i>	40
<i>Grevillea shiresii</i>	
<i>Hakea</i> sp. Kowmung River (H. Doherty 17-24)	
<i>Hakea trineura</i>	
<i>Haloragis exalata</i>	
<i>Hicksbeachia pinnatifolia</i>	45
<i>Homoranthus darwinioides</i>	
<i>Indigofera efoliata</i>	
<i>Isopogon fletcheri</i>	

Threatened Species Conservation 1993

SCHEDULE 2—ENDANGERED OR VULNERABLE OR RARE SPECIES AND
COMMUNITIES—*continued*

- Kennedia retrorsa*
Kunzea cabbagei
 5 *Lasiopetalum long stamineum*
Leptospermum deanei
Leptospermum thompsonii
Leucopogon exolasius
Macadamia cetraphylla
 10 *Maireana cheelii*
Melaleuca groveana
Micromyrtus blakelyi
Micromyrtus minutiflora
Microstrobos fitzgeraldii
 15 *Olearia cordata*
Ownia cepiodora
Ozothamnus tessellatus
Persicaria elatior
Persoonia acerosa
 20 *Persoonia glaucescens*
Persoonia marginata
Phaius australis
Phaius tancarvilleae
Phebalium ralstonii
 25 *Phebalium rhytidophyllum*
Phebalium sympetalum
Phyllota humifusa
Pimelea venosa
Plinthanthesis rodwayi
 30 *Pomaderris brunnea*
Pomaderris pallida
Pomaderris parrisiae
Prasophyllum morganii
Prostanthera cineolifera
 35 *Prostanthera crypcandroides*
Prostanthera censa
Prostanthera ciscolor
Prostanthera stircta
Prostanthera teretifolia
 40 *Pterostylis cobarensis*
Pterostylis pulchella
Pultenaea aristata
Pultenaea baeuerlenii
Pultenaea campbellii
 45 *Pultenaea glabra*
Pultenaea parrisiae Briggs & Crisp ms
Pultenaea parviflora
Pultenaea stuartiana

Threatened Species Conservation 1993

SCHEDULE 2—ENDANGERED OR VULNERABLE OR RARE SPECIES AND
COMMUNITIES—*continued*

<i>Ramunculus anemoneus</i>	
<i>Restio longipes</i>	
<i>Rulingia procumbens</i>	5
<i>Rutidosia heterogama</i>	
<i>Rutidosia leioplepis</i>	
<i>Sarcophilus fitzgeraldii</i>	
<i>Sarcophilus hartmannii</i>	
<i>Sarcophilus weinthalii</i>	10
<i>Senecio garlandii</i>	
<i>Sophora fraseri</i>	
<i>Stipa metatoris</i>	
<i>Swainsona murrayana</i>	
<i>Swainsona plagiotropis</i>	15
<i>Swainsona pyrophila</i>	
<i>Symplocos baeuerlenii</i>	
<i>Syzygium hodgkinsoniae</i>	
<i>Syzygium moorei</i>	
<i>Syzygium paniculatum</i>	20
<i>Tasmania glaucifolia</i>	
<i>Tasmania purpurascens</i>	
<i>Tetratheca glandulosa</i>	
<i>Tetratheca juncea</i>	
<i>Thesium australe</i>	25
<i>Tinospora tinoporoides</i>	
<i>Velleia perfoliata</i>	
<i>Westringia davidii</i>	
<i>Xerothamnella parvifolia</i>	
<i>Zieria citriodora</i> Armstrong ms	30
<i>Zieria covenyi</i> Armstrong ms	
<i>Zieria granulata</i>	
<i>Zieria ingramii</i> Armstrong ms	
<i>Zieria involucrata</i>	
<i>Zieria murphyi</i>	35
<i>Zieria tuberculata</i> Armstrong ms	
<i>Abrotanella nivigena</i>	
<i>Acacia adunca</i>	
<i>Acacia asparagoides</i>	
<i>Acacia ausfeldii</i>	40
<i>Acacia blayana</i>	
<i>Acacia chalkeri</i>	
<i>Acacia chrysotricha</i>	
<i>Acacia costiniana</i>	
<i>Acacia covenyi</i>	45
<i>Acacia floydii</i>	
<i>Acacia forsythii</i>	

Threatened Species Conservation 1993

SCHEDULE 2—ENDANGERED OR VULNERABLE OR RARE SPECIES AND
COMMUNITIES—*continued*

- Acacia fulva*
- Acacia ingramii*
- 5 *Acacia jonesii*
- Acacia kydrensis*
- Acacia latisepala*
- Acacia lucasii*
- Acacia olsenii*
- 10 *Acacia rhigiophylla*
- Acacia sp. 4*
- Acacia subtilinervis*
- Acianthus amplexicaulis*
- Acomis acoma*
- 15 *Acronychia baeuerlenii*
- Adenochilus mortonii*
- Alania endlicheri*
- Archidencron muellerianum*
- Ardisia bakeri*
- 20 *Argopnyllum nullumense*
- Asperula charophyton*
- Astelia psychrocharis*
- Asterolasia hexapetala*
- Atkinsonia ligustrina*
- 25 *Atriplex morrisii*
- Austrobuxus swainii*
- Backhousia anisata*
- Baeckea denticulata*
- Baeckea sp. Pyranids*
- 30 *Banksia conferta*
- Bertya astrotricha*
- Bertya findlayi*
- Blandfordia cunninghamii*
- Blechnum gregsonii*
- 35 *Boronia fraseri*
- Boronia rubiginosa*
- Boronia subulifolia*
- Bosistoia floydii*
- Brachyscome stolonifera*
- 40 *Bulbophyllum argyrapus*
- Bulbophyllum weinthalii*
- Burnettia cuneata*
- Caladenia alata*
- Callistemon acuminatus*
- 45 *Callistemon shiressii*
- Carex capillacea*
- Carex cephalotes*
- Carex raleighii*

Threatened Species Conservation 1993

SCHEDULE 2—ENDANGERED OR VULNERABLE OR RARE SPECIES AND
COMMUNITIES—*continued*

<i>Cassia marksiana</i>	
<i>Chionochoa frigida</i>	
<i>Chionohebe densifolia</i>	5
<i>Colobanthus nivicola</i>	
<i>Colobanthus pulvinatus</i>	
<i>Conospermum burgessiorum</i>	
<i>Cordyline congesta</i>	
<i>Craspedia leucantha</i>	10
<i>Cryptocarya floydii</i>	
<i>Cryptocarya</i> sp. 1	
<i>Cryptocarya</i> sp. 2	
<i>Cryptocarya</i> sp. 3	
<i>Cyperus rupicolus</i>	15
<i>Cyphanthera scabrella</i>	
<i>Cystopteris filix-fragilis</i>	
<i>Darwinia ciminuta</i>	
<i>Darwinia glaucophylla</i>	
<i>Darwinia grandiflora</i>	20
<i>Darwinia peduncularis</i>	
<i>Darwinia procera</i>	
<i>Daviesia</i> sp. 25	
<i>Daviesia</i> sp. 26	
<i>Dendrobium schneideras</i>	25
<i>Deyeuxia accedens</i>	
<i>Deyeuxia affinis</i>	
<i>Dillwynia</i> sp. 1	
<i>Dillwynia</i> sp. 2	
<i>Dillwynia stipulifera</i>	30
<i>Discaria nitida</i>	
<i>Discaria pubescens</i>	
<i>Dodonaea hirsuta</i>	
<i>Dodonaea megazyga</i>	
<i>Dodonaea rhombifolia</i>	35
<i>Dodonaea serratifolia</i>	
<i>Drabastrum alpestre</i>	
<i>Duringtonia paludosa</i>	
<i>Eleocharis blakeana</i>	
<i>Endiandra globosa</i>	40
<i>Epacris apiculata</i>	
<i>Epacris coriaceae</i>	
<i>Epacris muelleri</i>	
<i>Erigeron setosus</i>	
<i>Eriostemon obovalis</i>	45
<i>Eucalyptus apiculata</i>	
<i>Eucalyptus approximans</i>	
<i>Eucalyptus badjensis</i>	

Threatened Species Conservation 1993

SCHEDULE 2—ENDANGERED OR VULNERABLE OR RARE SPECIES AND
COMMUNITIES—*continued*

- Eucalyptus baeuerlenii*
- Eucalyptus burgessiana*
- 5 *Eucalyptus codonocarpa*
- Eucalyptus deuaensis*
- Eucalyptus dunnii*
- Eucalyptus fusiformis*
- Eucalyptus gregsoniana*
- 10 *Eucalyptus largeana*
- Eucalyptus luehmanniana*
- Eucalyptus macarthurii*
- Eucalyptus michaeliana*
- Eucalyptus olsenii*
- 15 *Eucalyptus paliformis*
- Eucalyptus ruddery*
- Eucalyptus rummeryi*
- Eucalyptus rupicola*
- Eucalyptus saxatilis*
- 20 *Eucalyptus* sp. 10
- Eucalyptus* sp. 3
- Eucalyptus* sp. 5
- Eucalyptus triflora*
- Eucalyptus wilcoxii*
- 25 *Euphrasia alsa*
- Euphrasia bowderiae*
- Euphrasia orthocheila*
- Euphrasia ramulosa*
- Gahnia insignis*
- 30 *Galium rodii*
- Genoplesium baueri*
- Gentiana wissmannii*
- Geranium graniticola*
- Geranium obtusisepalum*
- 35 *Gingidia algens*
- Gingidia montana*
- Gonocarpus longifolius*
- Gonocarpus salsoloides*
- Goodenia glomerata*
- 40 *Goodenia rostrivalvis*
- Grevillea acerata*
- Grevillea barklyana*
- Grevillea johnsonii*
- Grevillea linsmithii*
- 45 *Grevillea longifolia*
- Grevillea molyneuxii*
- Grevillea obtusiflora*
- Grevillea oldei*

Threatened Species Conservation 1993

SCHEDULE 2—ENDANGERED OR VULNERABLE OR RARE SPECIES AND
COMMUNITIES—*continued*

<i>Grevillea rerwickiana</i>	
<i>Hakea constablei</i>	
<i>Haloragodendron baeuwerlenii</i>	5
<i>Helichrysum</i> sp. 1	
<i>Helichrysum whitei</i>	
<i>Helmholtzia glaberrima</i>	
<i>Hibbertia elata</i>	
<i>Hibbertia hermanniifolia</i>	10
<i>Hibbertia hexandra</i>	
<i>Hibbertia nitida</i>	
<i>Hibbertia</i> sp. 2	
<i>Hierochloe submutica</i>	
<i>Hymenophyllum pumilum</i>	15
<i>Irenepharsus magicus</i>	
<i>Irenepharsus trypherus</i>	
<i>Kunzea bracteolata</i>	
<i>Lasiopetalum joyceae</i>	
<i>Lastreopsis silvestris</i>	20
<i>Lepiderema pulchella</i>	
<i>Leptopteris fraseri</i>	
<i>Leptospermum argenteum</i>	
<i>Leptospermum blakelyi</i>	
<i>Leptospermum crassifolium</i>	25
<i>Leptospermum crassifolium</i>	
<i>Leptospermum deuense</i>	
<i>Leptospermum epacridoideum</i>	
<i>Leptospermum petraeum</i>	
<i>Leptospermum rupicola</i>	30
<i>Leptospermum spectabile</i>	
<i>Leptospermum subglabratum</i>	
<i>Leucopogon fletcheri</i>	
<i>Lissanthe sapida</i>	
<i>Lomandra orevis</i>	35
<i>Lomandra flaviatilis</i>	
<i>Lomandra patens</i>	
<i>Lycopodium phlegmaria</i>	
<i>Macrozamia diplomera</i>	
<i>Macrozamia stenomera</i>	40
<i>Melaleuca deanei</i>	
<i>Melaleuca tortifolia</i>	
<i>Millettia australis</i>	
<i>Monotoca ledifolia</i>	
<i>Monotoca rotundifolia</i>	45
<i>Muellerina myrtifolia</i>	
<i>Myoporum floribundum</i>	
<i>Neoastelia</i> sp. 1	

Threatened Species Conservation 1993

SCHEDULE 2—ENDANGERED OR VULNERABLE OR RARE SPECIES AND
COMMUNITIES—*continued*

- Notochloe microdon*
Olax angulata
5 *Olearia heterocarpa*
Oleria quercifolia
Olearia sp. 2
Oleria stilwelliae
Oreocallis pinnata
10 *Oreomyrrhis brevipes*
Oschatzia cuneifolia
Oxylobium sp. 1
Ozothamnus vagans
Papillilabium backleri
15 *Parahebe* sp. 1
Parantennaria uniceps
Parsonsia tenuis
Persoonia sp. 10
Persoonia sp. 2
20 *Phebalium carruthersii*
Phebalium ellipticum
Phebalium obcordatum
Phebalium viridiflorum
Pimelea sp. 6
25 *Pistosporum oreillyanum*
Plantago cladarophylla
Plantago palustris
Platysace clelandii
Platysace stephensonii
30 *Pneumatopteris pennigera*
Podolepis monticola
Pomaderris brogaerisis
Pomaderris costata
Pomaderris gilmourii
35 *Pomaderris notata*
Pomaderris pauciflora
Pomaderris virgata
Prasophyllum laminatum
Prostanthera crusiflora
40 *Prostanthera monticola*
Prostanthera porcata
Prostanthera walteri
Pseudanthus divaricatissimus
Pterostylis longicurva
45 *Pterostylis nigricans*
Pterostylis woollsii
Pultenaea incurvata
Pultenaea pychophylla
Pultenaea sp. 4

Threatened Species Conservation 1993

SCHEDULE 2—ENDANGERED OR VULNERABLE OR RARE SPECIES AND
COMMUNITIES—*continued*

<i>Pultenaea villifera</i>	
<i>Quassia</i> sp. 2	
<i>Ranunculus clivicola</i>	5
<i>Ranunculus dissectifolius</i>	
<i>Ranunculus niphophilus</i>	
<i>Ranunculis productus</i>	
<i>Rhamadamnia maideniana</i>	
<i>Rulingia hermanniifolia</i>	10
<i>Rulingia salvifolia</i>	
<i>Rupicola</i> sp. 1	
<i>Rupicola sprengelioides</i>	
<i>Sauropus ramosissimus</i>	
<i>Schistotylus purpuratus</i>	15
<i>Senecio macranthus</i>	
<i>Solanum karsensis</i>	
<i>Sphaerocionium lyallii</i>	
<i>Sprengelia menticola</i>	
<i>Spyricium cinereum</i>	20
<i>Stipa nullanulla</i>	
<i>Styphelia</i> sp. 1	
<i>Taraxacum aristum</i>	
<i>Tetradlea neglecta</i>	
<i>Thelionema grande</i>	25
<i>Thysanotus virgatus</i>	
<i>Trichosanthes subvelutina</i>	
<i>Typhonium eliosurum</i>	
<i>Viola improcera</i>	
<i>Wahlenbergia densifolia</i>	30
<i>Wahlenbergia</i> sp. 3	
<i>Westringia blakeana</i>	
<i>Westringia lucida</i>	
<i>Westringia saxatilis</i>	
<i>Zannichellia palustris</i>	35
<i>Zieria</i> sp. 10	
<i>Qieria</i> sp. 5	
<i>Qieria</i> sp. 8	
 GENUS AND SPECIES	
<i>Exocarpos sparteus</i>	40
<i>Grevillea pterosperma</i>	
<i>Hakea eyreana</i>	
<i>Indigo era helmsii</i>	
<i>Indiofera leucotricha</i>	
<i>Capparis loranthifolia</i> var. <i>loranthifolia</i>	45
<i>Cratystylis conocephala</i>	
<i>Sida rohlenae</i>	

Threatened Species Conservation 1993

SCHEDULE 3—POTENTIALLY VULNERABLE SPECIES AND COMMUNITIES

(Sec. 12 (2))

SCHEDULE 4—SPECIES AND COMMUNITIES PRESUMED EXTINCT

5

(Sec. 22)

SCHEDULE 5—THREATENING PROCESSES

(Sec. 20 (2))

- Predation by the European red fox (*Vulpes vulpes*).
- Predation by feral cats.
- 10 Competition and land degradation by feral rabbits.
- Competition and land degradation by feral goats.
- Dieback caused by the root-rot fungus (*Phytophthora cinnamoni*).
- Alteration to the natural flow of rivers and streams.
- Alteration to the natural temperature regimes of rivers and streams.
- 15 Introduction of live fish into waters outside their natural range within a river catchment since 1770.
- Loss of hollow-bearing trees in native forests.
- Removal of wood debris from streams.
- Introduction of exotic organisms into marine waters.
- 20 Use of lead shot cartridges for the hunting of waterfowl.
- Competition and land degradation by feral pigs.
- Competition and land degradation by feral camels.
- Competition and land degradation by feral donkeys.
- Competition and land degradation by feral horses.

SCHEDULE 6—PROVISIONS RELATING TO THE MEMBERS AND PROCEDURE OF THE COMMITTEE

25

(Sec. 9 (6))

PART 1—MEMBERS

Term of office

- 30 1. Subject to this Act, a member holds office for such period (not exceeding 4 years) as is specified in the member's instruments of appointment but is eligible for reappointment if otherwise qualified.

Deputies

- 35 2. (1) The Minister may, from time to time, appoint a person to be the deputy of a member and the Minister may revoke any such appointment.

Threatened Species Conservation 1993

SCHEDULE 6—PROVISIONS RELATING TO THE MEMBERS AND
PROCEDURE OF THE COMMITTEE—*continued*

- (2) In the absence of a member, the member's deputy:
- (a) may, if available, act in the place of the member; and
 - (b) while so acting, has all the functions of the member and is to be regarded as a member. 5
- (3) The deputy of a member who is also Chairperson does not have the member's functions as Chairperson.
- (4) A person while acting in the place of a member is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the person. 10

Allowances

3. A member is entitled to be paid such allowances as the Minister from time to time determines in respect of the member.

Vacancy in office of member 15

4. (1) The office of a member becomes vacant if the member:
- (a) dies; or
 - (b) completes a term of office and is not reappointed; or
 - (c) resigns the office by instrument in writing addressed to the Minister; or
 - (d) is removed from office by the Minister under this clause; or 20
 - (e) is absent from 4 consecutive meetings of the Committee of which reasonable notice has been given to the member personally or in the ordinary course of post, except on leave granted by the Committee or unless, before the expiration of 4 weeks after the last of those meetings, the member is excused by the Committee for having been absent from those meetings; or 25
 - (f) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit; or
 - (g) becomes a mentally incapacitated person; or
 - (h) is convicted in New South Wales of an offence which is punishable by penal servitude or imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence which, if committed in New South Wales, would be an offence so punishable. 30
- (2) The Minister may remove a member from office at any time.

Threatened Species Conservation 1993

SCHEDULE 6—PROVISIONS RELATING TO THE MEMBERS AND
PROCEDURE OF THE COMMITTEE—*continued*

Filling of vacancy in office of appointed member

- 5 5. If the office of a member becomes vacant, a person is, subject to this Act, to be appointed to fill the vacancy.

Vacation of office by Chairperson

6. (1) The office of Chairperson of the Committee becomes vacant if the Chairperson:
- 10 (a) resigns the office by instrument in writing addressed to the Minister; or
 (b) is removed from office by the Minister under this clause; or
 (c) ceases to be a member.
- (2) The Minister may remove the Chairperson from office at any time.

Disclosure of pecuniary interests

7. (1) A member of the Committee:
- 15 (a) who has a direct or indirect pecuniary interest in a matter being considered or about to be considered at a meeting of the Committee; and
 (b) whose interest appears to raise a conflict with the proper performance of the member's duties in relation to the consideration of the matter,
- 20 must, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of the Committee.
- (2) A disclosure by a member of the Committee at a meeting of the Committee that the member:
- (a) is a member, or is in the employment, of a specified company or other body; or
 (b) is a partner, or is in the employment, of a specified person; or
 (c) has some other specified interest relating to a specified company or other body or to a specified person,
- 25 is a sufficient disclosure of the nature of the interest in any matter relating to that company or other body or to that person which may arise after the date of the disclosure and which is required to be disclosed under this clause.
- 30 (3) Particulars of any disclosure made under this clause must be recorded by the members of the Committee in a book kept for the purpose and that book must be open at all reasonable hours to inspection by any person on payment of the fee determined by the members of the Committee.
- 35 (4) After a member of the Committee has disclosed the nature of an interest in any matter, the member must not, unless the Minister or the other members of the Committee otherwise determine:
- (a) be present during any deliberation of the Committee with respect to the matter; or
 (b) take part in any decision of the Committee with respect to the matter.

Threatened Species Conservation 1993

**SCHEDULE 6—PROVISIONS RELATING TO THE MEMBERS AND
PROCEDURE OF THE COMMITTEE—*continued***

- (5) For the purposes of the making of a determination by the members of the Committee under subclause (4), a member of the Committee who has a direct or indirect pecuniary interest in a matter to which the disclosure relates must not: 5
- (a) be present during any deliberation of the other members of the Committee for the purpose of making the determination; or
 - (b) take part in the making by the other members of the Committee of the determination.
- (6) A contravention of this clause does not invalidate any decision of the Committee. 10

Effect of certain other Acts

8. (1) Part 2 of the Public Sector Management Act 1988 does not apply to or in respect of the appointment of a member.
- (2) If by or under any Act provision is made: 15
- (a) requiring a person who is the holder of a specified office to devote the whole of his or her time to the duties of that office; or
 - (b) prohibiting the person from engaging in employment outside the duties of that office,
- the provision does not operate to disqualify the person from holding that office and also the office of a member or from accepting and retaining any remuneration payable to the person under this Act as such a member. 20
- (3) The office of a member is not, for the purposes of any Act, an office or place of profit under the Crown.

Proof of certain matters not required

9. In any legal proceedings, proof is not required (until evidence is given to the contrary) of: 25
- (a) the constitution of the Committee; or
 - (b) any resolution of the Committee; or
 - (c) the appointment of, or holding of office by, any member of the Committee; or
 - (d) the presence or nature of a quorum at any meeting of the Committee. 30

PART 2—PROCEDURE

General procedure

10. The procedure for the calling of meetings of the Committee and for the conduct of business at those meetings is, subject to this Act, to be as determined by the Committee. 35

Threatened Species Conservation 1993

SCHEDULE 6—PROVISIONS RELATING TO THE MEMBERS AND
PROCEDURE OF THE COMMITTEE—*continued*

Quorum

11. The quorum for a meeting of the Committee is 6 members.

5 Presiding member

12. (1) The Chairperson or, in the absence of the Chairperson, another member elected to chair the meeting by the members present is to preside at a meeting of the Committee.

10 (2) The person presiding at any meeting of the Committee has a deliberative vote and, in the event of an equality of votes, has a second or casting vote.

Voting

13. A decision supported by a majority of the votes cast at a meeting of the Committee at which a quorum is present is the decision of the Committee.

Transaction of business outside meetings or by telephone etc.

15 14. (1) The Committee may, if it thinks fit, transact any of its business by the circulation of papers among all the members of the Committee for the time being, and a resolution in writing approved in writing by a majority of those members is to be regarded as a decision of the Committee.

20 (2) The Committee may, if it thinks fit, transact any of its business at a meeting at which members (or some members) participate by telephone, closed-circuit television or other means, but only if any member who speaks on a matter before the meeting can be heard by the other members.

(3) For the purpose of:

(a) the approval of a resolution under subclause (1); or

25 (b) a meeting held in accordance with subclause (2),

the Chairperson and each member have the same voting rights as they have at an ordinary meeting of the Committee.

(4) A resolution approved under subclause (1) is, subject to the regulations, to be recorded in the minutes of the meetings of the Committee.

30 (5) Papers may be circulated among members for the purposes of subclause (1) by facsimile or other transmission of the information in the papers concerned.

Minutes

15. The Committee must cause full and accurate minutes to be kept of the proceedings of each meeting of the Committee.

Threatened Species Conservation 1993

SCHEDULE 6—PROVISIONS RELATING TO THE MEMBERS AND
PROCEDURE OF THE COMMITTEE—*continued*

First meeting

16. The Minister may call the first meeting of the Committee in such manner as the Minister thinks fit and is to call that meeting within 3 months after the commencement of section 9.

5

SCHEDULE 7—AMENDMENT OF ACTS

(Sec. 59)

Environmental Planning and Assessment Act 1979 No. 203

(1) Section 4 (**Definitions**):

10

Omit the definition of “endangered fauna” from section 4 (1).

(2) Section 4A (**Significant effect on the environment of certain species and communities**):

(a) Omit “endangered fauna” where firstly occurring, insert instead “species or community listed in Schedule 2 to the Threatened Species Conservation Act 1993”.

15

(b) Omit section 4A (g), insert instead:

(g) any adverse effect on the survival of that species or community or on the population of that species or community.

20

(3) Section 77 (**Making of development applications**):

(a) From section 77 (3) (d1), omit “endangered fauna”, insert instead “species or community listed in Schedule 2 to the Threatened Species Conservation Act 1993”.

25

(b) From section 77 (3) (d1) omit “fauna impact statement in accordance with section 92D of the National Parks and Wildlife Act 1974”, insert instead “threatened species impact statement in accordance with section 35 of the Threatened Species Conservation Act 1993”.

30

(c) From section 77 (4A), omit “fauna impact statement”, insert instead “threatened species impact statement”.

Threatened Species Conservation 1993

SCHEDULE 7—AMENDMENT OF ACTS—*continued***(4) Section 90 (Matters for consideration):**

(a) After section 90 (1) (b), insert:

5 (b1) any relevant recovery plan or action plan made under
the Threatened Species Conservation Act 1993;

(b) From section 90 (1) (c2), omit “endangered fauna”, insert
instead “species or community listed in Schedule 2 to the
Threatened Species Conservation Act 1993”.

10 **(5) Section 112 (Decision of determining authority in relation to
certain activities):**

15 (a) From section 112 (1B), omit “endangered fauna unless a
fauna impact statement has been prepared in accordance with
section 92D of the National Parks and Wildlife Act 1974”,
insert instead “species or community listed in Schedule 2 to
the Threatened Species Conservation Act 1993 unless a
threatened species impact statement has been prepared in
accordance with section 35 of that Act”.

20 (b) From section 112 (1C), omit “section 92D (1) of the
National Parks and Wildlife Act 1974”, insert instead
“section 35 (1) of the Threatened Species Conservation Act
1993”.

(c) From section 112 (1C) and (1D), omit “fauna impact
statement” wherever occurring, insert instead “threatened
species impact statement”.

25 **Land and Environment Court Act 1979 No. 204**

**(1) Section 20 (Class 4—environmental planning and protection
civil enforcement):**

(a) After section 20 (1) (cj), insert:

30 (ck) proceedings under section 49, 50 and 52 of the
Threatened Species Conservation Act 1993.

(b) Insert in section 20 (3) (a), in alphabetical order:
Threatened Species Conservation Act 1993;

Threatened Species Conservation 1993

SCHEDULE 7—AMENDMENT OF ACTS—*continued*

- (2) Section 21 (**Class 5—environmental planning and protection summary enforcement**):

After section 21 (ca), insert:

- (cb) section 56 of the Threatened Species Conservation Act 1993; 5

National Parks and Wildlife Act 1974 No. 80

- (1) Section 92A (**Scientific Committee**):

Omit section 92A (1) and (2), insert instead:

- (1) On and from the commencement of the Threatened Species Conservation Act 1993, the Scientific Advisory Committee established under that Act is to be regarded as the Scientific Committee referred to in this section. 10

- (2) Sections 92B–92D:

Omit the sections. 15

- (3) Section 145 (**Acquisition of land for reservation etc.**):

After “Part 4”, insert “, protecting threatened species or communities identified in Schedule 2 or 3 of the Threatened Species Conservation Act 1993”.

- (4) Schedule 8B (**Scientific Committee procedures and conditions**): 20

Omit the Schedule.

**SCHEDULE 8—AMENDMENT OF ENVIRONMENTAL
PLANNING AND ASSESSMENT REGULATION 1980**

(Sec. 60)

- Clause 41A (**Matters for consideration in determining development applications**): 25

After clause 41A (e), insert:

- (f) any relevant recovery plan or action plan made under the Threatened Species Conservation Act 1993.

Threatened Species Conservation 1993

**SCHEDULE 8—AMENDMENT OF ENVIRONMENTAL
PLANNING AND ASSESSMENT REGULATION 1980—*continued***

Clause 56 (Factors for considerations):

After clause 56 (f), insert:

- 5 (f1) any impact on a recovery plan or action plan made
 under the Threatened Species Conservation Act 1993.
-